



TURKEY COUNTRY REPORT

April 2005

Country Information & Policy Unit

**IMMIGRATION AND NATIONALITY DIRECTORATE
HOME OFFICE, UNITED KINGDOM**

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1. SCOPE OF DOCUMENT

1.1 This Country Report has been produced by Immigration and Nationality Directorate, Home Office, for use by officials involved in the asylum / human rights determination process. The Report provides general background information about the issues most commonly raised in asylum / human rights claims made in the United Kingdom. It includes information available up to 1 March 2005.

1.2 The Country Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum / human rights determination process.

1.3 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

1.4 The structure and format of the Country Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

1.5 The information included in this Country Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented; rather that information regarding implementation has not been found.

1.6 As noted above, the Country Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. Country Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text.

1.7 The Country Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

1.8 This Country Report and the accompanying source material are public documents. All Country Reports are published on the IND section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.

1.9 Country Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in Country Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country Information Bulletins, which are also published on the IND website. They also have constant access to an information request service for specific enquiries.

1.10 In producing this Country Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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Advisory Panel on Country Information

1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country information material. The Advisory Panel welcomes all feedback on the Home Office's Country Reports and other country information material. Information about the Panel's work can be found on its website at www.apci.org.uk.

1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office Country Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Geography

2.1 According to the Europa Regional Surveys of the World: The Middle East and North Africa 2005, the Republic of Turkey covers an area of approximately 780,000 square kilometres (approximately 301,000 square miles). According to official figures the population in 2001 numbered 67.8 million. The capital city is Ankara while other principal cities include Istanbul, Izmir and Adana. [1d] (p1186) According to UN estimates, the country's population at mid-2003 totalled 70,885,000, giving an average density per sq. km of 90.9 inhabitants. Europa further reports that Turkey is a passage of land between Europe and Asia, boasting land frontiers with Greece, Bulgaria, Armenia, Georgia, the Nakhichevan autonomous enclave of Azerbaijan, Iran, Iraq and Syria. [1d] (p1151)

2.2 According to Europa the Turkish language is spoken over most, but by no means all, of the country. In addition there are a number of non-Turkish languages. Kurdish is widely spoken in the southeast along the Syrian and Iraqi frontiers. Smaller language groups include Caucasian, Greek and Armenian. [1d] (p1152)

2.3 The US State Department report on International Religious Freedom, published 15 September 2004 reported that approximately 99 percent of the Turkish population are Muslim; the majority of whom are Sunni. There are also several other religious groups, mostly concentrated in Istanbul and other large cities. [5b] (p1)

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3. Economy

3.1 As noted in the US State Department report 2004 (USSD), published 28 February 2005:

“The country had a market economy and a population of approximately 67.8 million. Industry and services dominated the economy, but agriculture remained important. During the year [2004], the real gross domestic product was expected to grow by over 10 percent and consumer prices were expected to rise by less than 12 percent... There were major disparities in income, particularly between the relatively developed west and the less developed east.” [5c] (Introduction)

3.2 The British Embassy in Ankara reported on 18 April 2005 that:

“Turkey was the world's 18th largest economy in 2003 and had the fastest growth rate (9.9% GNP) among OECD countries in 2004. Textiles, automotive and electronic appliances are the fastest growing sectors, with many of the goods exported to Europe. An IMF backed stability programme has helped bring down annual inflation to single digits (CPI was 8.9% in March 2005), and prudent fiscal policies have brought about reductions in the budget deficit and national debt stock as measured against GNP. High unemployment and large income disparities are the biggest economic challenges facing Turkey. The official unemployment rate was 10.3% in 2004, but youth unemployment is much higher and there is a significant degree of hidden unemployment. Real wages have not recovered from the recession in 2001 and the large gap in income inequalities between the more prosperous west and the disadvantaged east remains.” [4c]

3.3 On 31 December 2004, BBC News reported that Turkey was to re-launch its currency, knocking six zeros off the lira in the hope of boosting trade and powering its growing economy. “The currency - officially to be known as the new lira - will be launched at midnight on 1 January. From that point, the one-million lira note will become the new one-lira coin.” [66ab]

3.4 As reported by BBC Market Data on 26 January 2005, the exchange rate was then 2.49 Turkish Lira (TL) to £1 sterling. [66f]

3.5 The World Bank Data and Statistics for Turkey - World Development Indicators database, August 2004 (website accessed 16 April 2005) recorded a GNI per capita [average annual income] in 2003 of US\$ 2,790 [corresponding to £1,474 in April 2005]. The GNI for 2002 was US\$ 2,510. [45]

Corruption

3.6 Transparency International ranked Turkey 77th out of 146 countries in its Corruption Perception Index for 2004. [55a] The Index relates to perceptions of the degree of corruption as seen by business people, academics and risk analysts, and ranges between 10 (highly clean) and 0 (highly corrupt). Turkey obtained a score of 3.2 in 2004 - a slight improvement from the 3.1 it received in 2003. [55b]

3.7 The European Commission Regular Report on Turkey's progress towards Accession 2004 published 6 October 2004 reported that "In the last year, some further progress has been achieved in adopting anti-corruption measures. However, surveys continue to indicate that corruption remains a very serious problem in Turkey." [71c] (p28)

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4. History

4.1 As recorded in the Europa Regional Surveys of the World: The Middle East and North Africa 2005 [Europa]:

"On 11 September 1980 the armed forces, led by General Evren, seized power in a bloodless coup, the third in 20 years. There appeared to be three main reasons for their intervention: the failure of the Government to deal with the country's political and economic chaos, the ineffectiveness of the police forces and, more immediately, the sudden resurgence of Islamist fundamentalism. The coup leaders formed a five-man National Security Council (NSC) sworn in on the 18 September [1980]. Martial law was extended to the whole country and the legislature was dissolved." [1d] (p1160)

4.2 Europa further records that:

"The new government succeeded in reducing the level of political violence in Turkey and in establishing law and order. However, the likelihood that this had been achieved only at the expense of human rights caused concern amongst the Western Governments: Turkey was banned from the Council of Europe, EC aid was suspended, and fellow members of NATO urged Turkey to return to democratic rule as soon as possible...A new Constitution was approved by referendum on 7 November 1982, with a 91% majority, despite widely expressed objections that excessive powers were to be granted to the President, while judicial powers and the rights of trade unions and the press were to be curtailed." [1d] (p1160)

In May 1983 the 30-month ban on political activity was revoked and parties allowed to be formed under strict rules. A General election was held on 6 November 1983 and parliamentary rule was restored with a 400-seat unicameral Grand National Assembly. [1d] (p1161)

The Netherlands Ministry of Foreign Affairs Official General report on Turkey, published January 2002, reported that “The new regime managed to curb political violence which had been raging for about 10 years, but at the cost of established democratic rights. The adoption of new, far tougher constitution in a 1982 referendum was followed a year later by the restoration of civilian rule.” [2a] (p9)

General election 1995

4.3 According to the UNHCR Background Paper on Refugees and Asylum Seekers from Turkey published September 2001

“In 1995, the Islamist Refah Party-RP (Welfare Party) took advantage of the discontent over corruption, high inflation and unemployment to win a majority in the general elections of December 1995. RP and the centre-right DYP formed Turkey’s first Islamist-led coalition government in June 1996.... [However] Refah Prime Minister Necmettin Erbakan was at odds with the military, over government policies such as allowing female civil servants to wear traditional headscarves. Necmettin Erbakan resigned under intense military pressure in June 1997.” [18c] (p19)

The National Security Council’s (MGK) actions 1997

4.4 The Europa Regional Surveys 2005 records that in the context of persistent rumours of an imminent military coup, the National Security Council (MGK) produced on 28 February 1997 a list of action points, which on the 5 March 1997 were reluctantly agreed by Prime Minister Erbakan, under intense pressure. The measures were designed to maintain Turkey's secularist state and western orientation. In June 1997 Erbakan resigned. The President invited Mesut Yilmaz, leader of the main opposition ANAP (Motherland Party), to form a government. [1d] (p1166) (See paras 5.18-5.23 for more information on the MGK)

4.5 Europa continued “On the 16 January 1998 the Constitutional Court issued a judgement banning the RP [Refah Party] on the grounds that it had a ‘hidden’ fundamentalist agenda and had conspired against the secular order. In addition, former Prime Minister Erbakan and six other RP officials were banned from holding political office for five years.” [1d] (p1167)

4.6 Europa also reported that following corruption allegations against Prime Minister Yilmaz’s coalition the Grand National Assembly approved a motion of ‘no confidence’ in the government, which subsequently resigned. Protracted political manoeuvring resulted in the formation, in January 1999, of an interim administration headed by Bulent Ecevit, comprising members of the DSP and independents. [1d] (p1168)

4.7 Europa further reported that in January 1999 a motion was filed for the dissolution of HADEP (a pro-Kurdish political party), owing to its alleged links with the PKK (Kurdistan Workers Party); however in March 1999 the Constitutional Court ruled that HADEP was to be allowed to contest the 1999 elections. [1d] (p1168) (See Section 6B on Pro-Kurdish political parties)

General Election 1999

4.8 Europa records that, on 18 April 1999, early elections took place to the 550 seat Grand National Assembly. On the 3 May 1999 President Demirel invited Bulent Ecevit to form a new administration, and on the 28 May 1999 a three party coalition Government composed of the DSP, the MHP and ANAP, was announced. The new Government commanded 351 seats in the Grand National Assembly, and was thus the first since 1995 to command an overall parliamentary majority. [1d] (p1168)

4.9 Keesings Record of World Events of April 1999 reported that the pro-Kurdish Peoples Democracy Party (HADEP) received less than 5 per cent of the vote in the 1999 general election. However, HADEP won control of several municipalities in the southeast, including the regional capital, Diyarbakir in simultaneous local elections. [32a] (p42911)

4.10 Europa reports that in May 2000 Parliament elected as the new President of Turkey Ahmet Necdet Sezer, who previously had been the President of the Constitutional Court. [1d] (p1168)

4.11 Europa also reports that in common with its three Islamic predecessors, the Fazilet Party or Virtue Party was banned by the Constitutional Court on 22 June 2001 on the grounds that the party had become the focus of anti-secular activities in breach of the Constitution. [1d] (p1169)

Conflict with the PKK (Partiya Karkeren Kurdistan - Kurdistan Workers' Party)

4.12 Europa reports that in 1984, the outlawed PKK led by Abdullah Öcalan launched a violent guerrilla campaign against the Turkish authorities in the southeastern provinces. The government responded by arresting suspected Kurdish leaders, sending in more security forces, establishing local militia groups and imposing martial law later changed to states of emergency in the troubled provinces. [1d] (p1164)

4.13 The Netherlands report of 2002 stated that

“The PKKs armed operations in south eastern Turkey, starting 1984 and peaking from 1990 to 1994, involved attacks on civilian (in many cases Kurdish) and military targets, causing around 30,000 deaths. The PKK was guilty of atrocities, including murders, especially in rural parts of the south east but also in other areas....The PKK attempted to make the south east ungovernable, by systematically destroying economic and social infrastructure etc and by deliberately polarising the local population.” [2a] (p11)

4.14 The Netherlands report continued “From the outset the Turkish army took tough action against the PKK. The combat against the PKK was often also accompanied by various other kinds of human rights violations by the security forces.” [2a] (p12)

4.15 Europa reports that in October 1998 the PKK's leader, Abdullah Öcalan, was forced to leave his base in Syria. Following his expulsion he unsuccessfully attempted to claim asylum in several European countries before being captured at the Greek Embassy in Kenya and returned to Turkey. After his capture widespread Kurdish protests were held throughout Europe. [1d] (p1168)

4.16 Europa continued: “Öcalan was charged with treason on 23 February 1999, and held personally responsible for the deaths of some 30,000 people during the 15 year Kurdish struggle for autonomy.” Some foreign journalists were permitted to observe Öcalan's trial, but Öcalan's lawyers claimed that they had been prevented from providing a proper defence. During the proceedings Öcalan depicted himself as a moderate, called for a PKK cease-fire and declared his willingness to negotiate a peace agreement for the Kurdish region if his life was spared. On the 29 June 2003, however, he was found guilty and sentenced to death [later changed to life imprisonment]. [1d] (p1168)

4.17 According to the UNHCR Background Paper 2001

“On 2 August 1999, he [Abdullah Öcalan] called on the PKK to withdraw its troops from Turkey, and cease military operations from 1 September 1999. On 8 February 2000, it [the PKK] formally announced that it would abandon the armed struggle in favour of a political approach. The security situation improved considerably since.” [18c] (p15)

4.18 The Turkish commercial Television channel NTV reported that on 16 April 2002 the PKK announced that it had ceased activities and had regrouped as KADEK, the Kurdistan Freedom and Democracy Congress (Kurdistan Özgürlük ve Demokrasi Kongresi). [61a]

4.19 The BBC reported on 3 September 2003 that, on 1 September 2003, the PKK/KADEK had announced an end to their four-year cease-fire with the Turkish Government. They accused the Government of failing to fully address demands for Kurdish cultural rights, constitutional change and freedom of expression, despite the passing by parliament of a number laws removing restrictions on Kurds. A spokeswoman for the PKK stated that she did not expect a return to all-out conflict but instead some sort of low intensity warfare. [66e]

4.20 As recorded in Europa, in November 2003 KADEK assumed the present name of Kongra-Gel (Kurdistan's People's Congress). [1d] (p1194)

4.21 On the 29 May 2004 the BBC reported that Kongra-Gel declared that its five-year unilateral cease-fire would end in three days time (on the 1 June

2004) and that it would start to target Turkish security forces. However, according to the BBC it is difficult to know how seriously to take the threat of renewed military action by Kongra-Gel as deep divisions have been reported within the organisation. It is believed that a sizeable faction wants to renounce the armed struggle once and for all. [66z]

4.22 On 26 June 2004 the Turkish Daily News reported that a group of Kongra-Gel militants under the command of Osman Öcalan the brother of Abdullah Öcalan had rejected calls to end the ceasefire and had arrived in the Iraqi city of Mosul. The Turkish Daily News reported that Kongra-Gel had split into three factions, one group that supported the end of the ceasefire, and two groups who opposed a return to military conflict. [23n]

4.23 As mentioned in the Europol document 'Terrorist Activity in the European Union: situation and trends report (TE-SAT) October 2003 - 17th October 2004)' dated 2 December 2004:

"Due to disagreements on both the supremacy within the organisation and the future political line, in May 2004, high-ranking leaders and board members, among them Osman ÖCALAN, brother of Abdullah ÖCALAN, split off the organisation and, in the beginning of August 2004, announced via the print media the foundation of a new organisation named "Patriotic Democratic Party" (Partiya Welatperez'e Demokratik, PWD). PWD's proclaimed objective is to promote and enlarge the rights of Kurds by political means." [20] (p44)

4.24 In an article dated 1 September 2004, The Guardian reported that

"Two Turks and 11 Kurds have been killed in three days' of fighting between the army and the Kurdistan Workers party or PKK, now known as Kongra-Gel, in Hakkari province on the Turkish border with Iraq. A Turkish official said yesterday that more than 1,000 troops took part in the offensive.... More than 20 soldiers or policemen have been killed since June 1 [2004], when the rebels called off a ceasefire declared in 1999 after the capture of their leader, Abdullah Ocalan." [38d]

European Union reforms 2001-2002

4.25 As noted in the UNHCR background paper 2001 "Turkey has been an associate member of the then European Commission (now EU) since 1 December 1964 and made a formal application to join the EU in April 1987.... In 1999, the EU declared Turkey a candidate for EU Accession at its Helsinki Summit." [18c] (p22)

4.26 The Independent reported in October 2001 that Turkey had completed its biggest legislative overhaul in two decades, when Parliament approved a package of 34 amendments to the Constitution designed to pave the way for membership of the European Union. The amendments, ranging from easing restrictions on using the Kurdish language, to making it harder to ban political parties, were the first big shake-up of Turkey's Constitution since it was drafted after the 1980 military coup. [44a]

4.27 As stated in the European Commission's Regular Report on Turkey's Progress Towards Accession 2002, published October 2002

"The constitutional amendments of October 2001 led to the adoption of three sets of implementing legislation in 2002. The three 'reform packages', adopted in February, March and August 2002 in Acts No 4744, 4748 and 4771, modified various provisions of Turkey's major legislation and addressed a wide range of human rights issues, including the death penalty, the exercise of fundamental rights and freedoms, pre-trial detention and legal redress." [71a] (p25)

4.28 The European Commission 2002 continued: "The adoption of these reforms demonstrates the determination of the majority of Turkey's political leaders to move towards further alignment with the values and standards of the European Union. These reforms were adopted under difficult political and economic circumstances, and represent a major shift in the Turkish context." [71a] (p17)

4.29 The European Commission 2002 further reported that "The reform package adopted by Parliament in August 2002 was particularly far reaching. Among the amendments adopted are the lifting of the death penalty in peace time, the possibility for Radio and TV broadcasting in Kurdish, the widening of freedom of expression and greater freedom for non-Moslem religious minorities." [71a] (p17)

4.30 However, the European Commission concluded in its 2002 report that Turkey did not fully meet the Copenhagen political criteria for EU membership. [71a] (p47)

General Election 2002

4.31 An article in The Financial Times published 5 November 2002 outlined the results of the general election of 3 November 2002.

Party	Provisional percentage of votes cast	Number of parliamentary seats
AKP	34.3	363
CHP	19.4	178
DYP	9.5	-
MHP	8.3	-
GP	7.3	-
DEHAP	6.2	-
ANAP	5.1	-
SP	2.5	-
DSP	1.2	-
YTP	1.2	-
BBP	1.0	-
Independents	8.6	9

[41]

4.32 The Organisation for Security and Co-operation in Europe (OSCE) found in their report on the Turkish elections, published 4 December 2002 that “The election campaign was short but active. Parties campaigned in a calm and peaceful atmosphere. Although there were a substantial number of cases of harassment reported by some political parties and by human rights groups, there was a general consensus that the situation had improved markedly compared to previous elections.” [14] (p2)

European Union reforms 2002- 2004

4.33 The Independent newspaper reported on 14 December 2002 that the European Union summit in Copenhagen on 12 and 13 December 2002 decided that Turkey would have to wait until December 2004 before a review that could lead to negotiations for Turkey to join the EU. The review would decide whether Turkey met the human rights criteria. [44b]

4.34 The European Commission Regular Report on Turkey’s progress towards Accession 2003, published in November 2003, recorded that

“Four major packages of political reform have been adopted over the last year [2002-2003], introducing changes to different areas of legislation. Some of the reforms carry great political significance as they impinge upon sensitive issues in the Turkish context, such as freedom of expression, freedom of demonstration, cultural rights and civilian control of the military. In this context, the seventh reform package adopted in July 2003 was particularly important.” [71b] (p15)

4.35 Information obtained from the Turkish Prime Minister’s website (accessed August 2003), detailed that the fourth reform package (December 2002) stipulated that punishment handed down for convictions of torture and abuse could not be converted into fines and neither could they be postponed. Further measures were introduced that made it more difficult for those convicted of inflicting torture to avoid prison sentences and making it more difficult for courts to ban political parties. Journalists were no longer required to disclose their sources to the authorities. [36a] (p1-4)

4.36 The Prime Minister’s website reported that “On 23 January 2003, parliament adopted the fifth EU reform package, which permits the re-trial of persons in line with the decisions of the European Court of Human Rights (ECtHR). Under the law, if an individual, who applied to the ECtHR, is found to be in the right, he/she can re-apply for a retrial to the court in his/her country, which found him/her guilty.” [36b] (p1)

4.37 The same website reported that on 19 July 2003 the sixth European Union reform package came into effect. The 22-article package foresees amendments to several laws, including the abolishment of Article 8 of the Anti-Terrorism Law entitled, ‘propaganda against the indivisibility of the state.’ The sixth reform package also made provision for state-owned and private radio

and television channels to broadcast in languages and dialects used traditionally in the daily life of Turkish citizens such as Kurdish. [36c] (p1-3)

4.38 As outlined in the Prime Minister's website, the seventh reform package was approved by the Parliament on 29 July 2003 and by President Ahmet Necdet Sezer on 6 August 2003. The package reduced the political role of the armed forces. The National Security Council's Secretary General no longer needs to be a military man and the council's role will be reduced to that of an advisory body. Another amendment regulates that the NSC will convene once every two months instead of monthly. It also restricted the jurisdiction of Military Courts over civilians in times of peace and gives Parliament scrutiny over military accounts. [36d] (p1-2)

4.39 The website noted that there were also a number of laws easing restrictions on freedom of association and assembly and on the teaching of non-Turkish languages in schools. The seventh reform package also stated that investigations into crimes of torture and maltreatment will be considered urgent cases and it will not be possible to adjourn the trials of these crimes for more than thirty days. These hearings will continue to be held even during the judicial recess. [36d] (p2-4)

4.40 However, the European Commission, in its November 2003 report, concluded that despite these reforms Turkey still failed to meet the Copenhagen political criteria. [71b] (p42-44)

4.41 On 16 September 2004 the BBC reported that Turkey's government had withdrawn from debate a penal code reform bill seen as crucial to the country's EU entry. "The move came hours after members of the ruling party said they would bring an amendment to introduce a clause to criminalising (sic) adultery. On Tuesday the government appeared to have dropped plans to make adultery a crime after pressure from the EU." [66ae]

4.42 On 26 September 2004 it was reported by the BBC that the Turkish parliament had approved reforms to its penal code. As noted by the BBC, the Penal Code reform implies that: assaults on women will be more heavily punished, that rape in marriage is recognised and that there will be life terms for perpetrators of 'honour killings' and jail terms for the sexual molestation of children, trafficking of human organs and the pollution of the environment. Tougher measures against perpetrators of torture will be introduced and corruption in government has to be tackled. Proposals to criminalise adultery have been dropped. [66af]

4.43 As reported by the BBC on 6 October 2004, the European Commission had recommended opening talks on the admission of Turkey to the EU but EU officials had said that Ankara had to meet stiff conditions and there had been no recommended date to start negotiations with Turkey. [66ai] Key points from the European Commission's report on Turkey's progress towards meeting the conditions for EU membership such as political reforms; economic reforms; military reforms; judicial reforms; human rights torture; women's rights; children's rights; minority rights; freedom of religion and freedom of the press

were highlighted by the BBC. As noted by the BBC "The report is the basis for the Commission's recommendation to open Turkish accession talks." [66aj]

4.44 As stated in the Recommendation of the European Commission on Turkey's progress towards accession published 6 October 2004: "In view of the overall progress of reforms, and provided that Turkey brings into force the outstanding legislation mentioned above, the Commission considers that Turkey sufficiently fulfils the political criteria and recommends that accession negotiations be opened." [71d] (p3)

4.45 As noted in the conclusions of the European Commission Regular Report on Turkey's progress towards Accession 2004, published 6 October 2004:

"In conclusion, Turkey has achieved significant legislative progress in many areas, through further reform packages, constitutional changes and the adoption of a new Penal Code, and in particular in those identified as priorities in last year's report and in the Accession Partnership. Important progress was made in the implementation of political reforms, but these need to be further consolidated and broadened. This applies to the strengthening and full implementation of provisions related to the respect of fundamental freedoms and protection of human rights, including women's rights, trade union rights, minority rights and problems faced by non-Muslim religious communities. Civilian control over the military needs to be asserted, and law enforcement and judicial practice aligned with the spirit of the reforms. The fight against corruption should be pursued. The policy of zero tolerance towards torture should be reinforced through determined efforts at all levels of the Turkish state. The normalisation of the situation in the Southeast should be pursued through the return of displaced persons, a strategy for socio-economic development and the establishment of conditions for the full enjoyment of rights and freedoms by the Kurds." [71c] (p167)

4.46 On 15 December 2004 the BBC reported that the European Parliament had called on European Union leaders to open entry talks with Turkey "without undue delay". "A non-binding resolution supporting the start of accession negotiations was backed by 407 MEPs, with 262 against." As outlined by the BBC, earlier that day the Turkish Foreign Minister Abdullah Gul had told the Turkish Milliyet daily newspaper that there were four "red lines" that Turkey would not cross namely: negotiations had to have Turkey's complete membership as the final aim; Turkey had not to be forced to extend diplomatic recognition to the Republic of Cyprus; the decision to start talks had not to be conditional on subsequent decisions by EU leaders and there should be no special conditions imposed permanently on Turkey. [66ak]

4.47 As reported by the BBC on 17 December 2004, "The EU has offered to begin membership talks with Turkey next year, with 3 October [2005] given as a start date. EU leaders said the aim of the talks - which could take up to 15 years - would be full membership, but Turkey's entry could not be guaranteed... EU leaders warned Turkey that it would have to take steps to recognise Cyprus before the talks started." [66al] Later that day, the BBC

mentioned that the EU and Turkey had struck a deal over an EU demand that Turkey recognised Cyprus before membership talks begin. "The solution they found after two days of tough and at times heated talks was for Turkey to tacitly acknowledge the Cyprus government for the first time." [66am]

4.48 BBC reported on 18 December 2004 that Turkey's draft EU entry terms were as follows. "Turkey must sign a customs accord extending to all EU members, including Cyprus. The accord must be signed by the start of entry talks, proposed for October 2005. Membership talks will be open-ended. There is no guarantee of full membership if conditions are not met. If negotiations do fail, Europe will not turn its back on Turkey. Turkey must continue with political and economic reforms. Some safeguards may remain over migration of workers from Turkey." [66an]

Suicide bombings 2003-2004

4.49 The BBC reported that on 15 November 2003 two suicide bomb attacks were carried out against two synagogues in Istanbul killing at least 24 people and wounding more than 300. [66m] On 20 November 2003 two further suicide bombings were carried out one against the British Consulate and the other against the headquarters of the British based HSBC bank in Istanbul. The BBC reported that at least 27 people had been killed in these two blasts including the British Consul-General Roger Short. [66n] [66o] According to the BBC on 25 February 2004 Turkish prosecutors issued charges against 69 people suspected of involvement in the four suicide bombings. [66p]

4.50 The BBC also reported that on 10 March 2004 a suicide attack was carried out on a Masonic lodge, which killed one person and the suicide bomber. The BBC reported that the Turkish police have detained 18 people in connection with this attack, which they believe is linked to outside terrorist groups. [66r]

4.51 On 22 October 2004 the BBC reported that Istanbul's largest synagogue had reopened almost 11 months after being severely damaged in a suicide bombing linked to al-Qaeda, when suicide bombs at two synagogues in Istanbul in November 2003 had killed 29 people. [66ag]. On 25 October 2004 it was reported by the BBC that the British Consulate in Istanbul had reopened nearly a year after it was partly destroyed by a suicide bomber. [66ah].

Release of Kurdish deputies

4.52 The Prime Ministers website (accessed August 2003) reported that in line with the fifth reform package (passed in January 2003) the Ankara State Security Court (DGM) approved the application made by four former deputies of the defunct pro-Kurdish Democracy Party (DEP) for a retrial. The deputies (Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan) had applied to the European Court challenging their 1994 conviction for aiding and abetting members of the PKK terrorist organisation. The European Court decided that the former deputies had not been given a fair trial in the Turkish court. [36b]

4.53 On 21 April 2004 the BBC reported that the outcome of the retrial was that the four deputies had to remain in prison. [66w] An Amnesty International

Press Release dated 21 April 2004 reported that “Amnesty International is shocked by the decision to prolong the imprisonment of Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan. As prisoners of conscience, they should be released immediately and without condition.” [12h] (p1)

4.54 On 7 June 2004 the BBC reported that a Turkish prosecutor had called for the 15-year jail sentence for the four Kurdish deputies to be overturned. The prosecutor stated that the conviction should be quashed because the witnesses called to give evidence in the original trial had not been called for the re-trial. [66y]

4.55 An article in The Independent on 10 June 2004 reported that on the 9 June 2004 the four Kurdish Deputies were freed from prison. The newspaper reported that “Hundreds of supporters sang, performed Kurdish folk dances, cheered and hurled flowers at the four as they left Ulcunlar prison in Ankara after an appeals court ordered their release.” [44c]

4.56 On 14 July 2004 it was reported by the BBC that a Turkish court had ordered a retrial for the four Kurdish former MPs, who were freed after a decade of imprisonment. “The court said the four did not receive a fair hearing at their original trial in 1994 when they faced charges of collaborating with Kurdish rebels...No date has yet been set for the new trial. Earlier this week, police pressed for new charges to be brought against the four for making separatist speeches at rallies in south-eastern Turkey last month.” [66ac]

4.57 On 22 October 2004 the BBC reported that Kurdish activist Leyla Zana had announced plans to set up a new political party in Turkey, as she faces a retrial for alleged separatist links. The former MPs imprisoned with Mrs Zana were with her as she made the announcement in the Turkish capital, Ankara...After the announcement, Mrs Zana went to court for a retrial on the charges for which she was originally imprisoned - alleged links to the outlawed Kurdistan Workers' Party (PKK), which waged a bloody struggle for autonomy during the 1990s.” [66ad]

4.58 On 7 January 2005 the Anatolia news agency reported:

“Former DEP deputies Leyla Zana, Hatip Dicle and Orhan Dogan, who have started up the Democratic Society Movement, together with former chairman of HADEP [People's Democracy Party] Murat Bozlak and DEHAP [Democratic People's Party] Chairman Tuncer Bakirhan, attended the first "of the movement's Istanbul programme of meetings to bring together intellectuals and NGOs as well as consult the people" at the Taksim Hill Hotel. Reading out a prepared press statement before the meeting Orhan Dogan maintained that huge changes and transformations were taking place in all aspects of life, and that Turkey was not separate from this process of change.” [30f]

(See also Section 6B on Pro-Kurdish political parties)

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5. State Structures

The Constitution

5.1 The 'Introduction to Turkish Law' (1996), by Ansay and Wallace, states:

"The framers of the 1982 Constitution approached their task with the assumption that the political crisis of the 1970s was due to the erosion of state authority and, more specifically, to the weakness of the executive branch. This, in turn, was attributed to what was perceived as the excessive permissiveness of the 1961 Constitution and its equally excessive limitations on the exercise of the executive authority. The underlying objective of the framers of the 1982 Constitution was a 'strong state and strong executive'." [64] (p26)

5.2 Introduction to Turkish Law continues

"The principal characteristics of the state have been described in Articles 1 through 3 of the Constitution. Article 1 states that 'the State of Turkey is a Republic.' Article 2 describes the characteristics of the Republic as 'a democratic, secular, and social state governed by the rule of law, in accordance with the concept of social peace, national solidarity, and justice; respectful of human rights, committed to Atatürk nationalism, and based on the fundamental principles set forth in the Preamble.' Finally, according to Article 3, 'the Turkish State is an indivisible whole with its territory and nation. Its language is Turkish. Its flag is composed of a white crescent and star on a red background, in the manner prescribed by law. Its national anthem is the 'Independence March'. Its capital is Ankara. Provisions contained in the first three articles are specially protected by Article 4 of the constitution according to which Articles 1,2 and 3 shall not be amended, nor shall their amendment be proposed.'" [64] (p27)

5.3 As noted in Introduction to Turkish Law: "The 1982 Constitution, like its predecessors, retained the Kemalist conception of secularism. While it clearly recognized the freedom of religion (which compromises the freedom of faith and the freedom of worship), it kept the directorate of Religious Affairs (Diyanet Isleri Baskanligi) as part of the administrative apparatus (Art. 136)." [64] (p31) Introduction to Turkish Law also stated that Article 3's reference to the indivisibility of the state with its territory and nation is a clear ban on separatist movements. [64] (p28)

5.4 In April 2004 the Turkish Daily News reported that the Government proposed 10 amendments to the Constitution. Some of the changes included adding the statement 'men and women have equal rights' to Article 10, removing all references to capital punishment in Articles 15, 17 & 38 and annulling article 143 which effectively abolished State Security Courts. [23n]

5.5 As reported by the Turkish Daily News on 24 June 2004, the Constitution package was approved by Parliament on 7 May 2004 and sent to the President. [230]

5.6 Amnesty International's report 'Europe and Central Asia Summary of Amnesty International's Concerns in the Region January - June 2004' published 1 September 2004 stated that

"Notable laws in this period were the package of constitutional changes approved by the Turkish Parliament on 7 May [2004]. As of June [2004] one third of the articles in the 1982 constitution had been changed and this was the ninth time it had been amended. Among the changes, Article 143 - providing for State Security Courts - and Article 131/2 - providing for a member chosen by the General Chief of Staff to be represented on the Higher Education Council – were both repealed, and by adjusting part of Article 160 the annual military expenditure was made more transparent and placed under the monitoring of the Exchequer (*Sayistay*)." [121] (p56)

5.7 The AI report continued

"An important alteration to Article 90 of the Constitution placed international conventions above domestic law; this means that where there is a contradiction between the provisions of domestic law and an international agreement, international standards will take precedence. The impact of this measure was already beginning to be reflected in certain Court of Appeal decisions in subsequent months. A further amendment to Article 38 of the Constitution provided for extradition orders to be complied with in those cases which fell under the provisions of the International Criminal Court (ICC); although Turkey is not yet a signatory to the ICC Statute, this paves the way for it to become a party. All provisions in the Constitution (in Articles 15, 17, 38 and 87) relating to the death penalty were removed." [121] (p56)

Citizenship and nationality

5.8 As regards nationality by birth, Introduction to Turkish Law states that

"Turkish nationality is mainly acquired through the relation to the father or mother. Thus a legitimate or illegitimate, but legally recognised, child of a Turkish father or mother is Turkish. Legitimate children born to a Turkish mother, and not acquiring the nationality of the father by birth, as well as all illegitimate children born to Turkish mothers, are Turkish. Children born of non-Turkish parents do not acquire Turkish nationality by reason of birth on Turkish soil. An exception is the case of children born in Turkey and not acquiring at the time of birth the nationality of either their father or mother; they are Turkish at birth." [64] (p89)

5.9 Regarding acquisition of nationality other than by birth. Introduction to Turkish Law states that

“A foreign woman acquires Turkish nationality at the time of marriage to a Turkish man, if she makes a declaration of intention to this effect to the marriage officer. Any foreigner may acquire Turkish nationality by means of naturalisation (telsik). Persons who have lived in Turkey more than five years and have all the qualifications required by the law may apply to the Ministry of Interior, and, upon the recommendation of this Ministry, the Council of Ministers may grant Turkish nationality.” [64] (p89)

5.10 See also Section 5 on Military service, for information on the deprivation of nationality for evasion of military service.

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Political System

5.11 As recorded in the Europa Regional Surveys of the World: The Middle East and North Africa 2005: “Legislative power is vested in the unicameral Grand National Assembly (Parliament), which (following an amendment in July 1995) comprises 550 deputies who are elected by universal adult suffrage for a five-year term. Executive power is vested in the President, who is elected by the Grand National Assembly for a seven year term and is empowered to appoint a Prime Minister and senior members of the judiciary, the Central Bank and broadcasting organisations, to dissolve the National Assembly, and to declare a state of emergency entailing rule by decree.” [1d] (p1192)

5.12 The US State Department Report 2004 (USSD), published on 28 February 2005 noted that:

“The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage; however, the Government restricted the activities of some political parties and leaders.” [5c] (Section 3)

5.13 Europa records that on 5 May 2000 the Grand National Assembly elected Ahmet Necdet Sezer, hitherto President of the Constitutional Court and the Government’s nominee, as Turkey’s tenth President with 330 votes out of 533 in a third round voting. [1d] (p1168)

5.14 The Netherlands Ministry of Foreign Affairs Official General report on Turkey published January 2002 reported that “One of Parliament’s main tasks is to enact legislation by debating, amending and passing bills. Once adopted, a law has to be signed by the President within a fortnight. The President is entitled to refer back to Parliament a law submitted to him. If Parliament again approves the law in unchanged form, the President must sign it.” [2a] (p14)

5.15 The Netherlands report 2002 further stated that

“The Council of Ministers consists of the Prime Minister, departmental ministers and some 15 junior ministers.... The Turkish Council of

Ministers has some of Parliament's legislative powers delegated to it. The peculiarity of those powers in Turkey is that in this way the Government can amend or repeal existing laws by means of a 'decree having force of law' (Kanun Hükmünde Kararname, often abbreviated to KHK). Those decrees do ultimately have to be signed by the President." [2a] (p17-18)

5.16 The Europa Regional Surveys of the World 'The Middle East and North Africa 2005 states that "Legislation enacted in March 1986 stipulated that a political party must have organisations in at least 45 provinces, and in two-thirds of the districts in each of these provinces, in order to take part in an election. Parties can take seats in the National Assembly only if they win at least 10% of the national vote." [1d] (p1193)

5.17 Europa also records that in January 1998 the Islamist Refah Party was banned, [1d] (p1167) in June 2001 its successor, Fazilet (the Virtue Party) was also banned, [1d] (p1169) and most recently in March 2003 the pro-Kurdish party HADEP was banned. [1d] (p1171) (See Section 6B on Pro-Kurdish political parties)

National Security Council (MGK) or (NSC)

5.18 As noted in USSD 2004

"The military exercises indirect influence over government policy and actions in the belief that it is the constitutional protector of the State...The Constitution prohibits the Government from issuing orders or recommendations concerning the exercise of judicial power; however, the Government and the National Security Council (NSC), an advisory body to the Government composed of civilian government leaders and senior military officers, periodically issued announcements or directives about threats to the State, which could be interpreted as general directions to the judiciary. "[5c] (Introduction & Section 1e)

5.19 Europa Regional Survey 2005 records that on three occasions - 1960, 1971 and 1980 - Turkish military leaders have intervened to uphold the principles on which the Constitution is based, and to preserve internal law and order. [1d] (p1155-1157, p1160) (See also Section 4 on The National Security Council's (MGK)'s actions in 1997)

5.20 According to the Turkish Daily News on 10 December 2003 the Turkish "Parliament's General Assembly approved a proposal that lifts the secrecy requirements in National Security Council (MGK) regulations, appointments and personnel. The proposal rescinds Article 16 of the MGK Law, which says that MGK appointments cannot be published in the official gazette, as well as certain words in article 17." [23i]

5.21 The European Commission Regular Report on Turkey's progress towards Accession 2004, published 6 October 2004, noted that "Since 1999, civilian control of the military has been strengthened. The constitutional and

legal framework has been amended to clarify the position of the armed forces versus the civilian authorities. A number of changes have been introduced over the last year [2003-2004] to strengthen civilian control of the military with a view to aligning it with practice in EU member States.” [71c] (p21)

5.22 The EC report 2004 continued “As regards the duties, functioning and composition of the National Security Council, a Regulation was adopted in January 2004 implementing previous legislative changes of July 2003.... In August 2004, a senior diplomat was appointed as the first civilian Secretary General of the NSC by the President upon the proposal of the Prime Minister in accordance with the changes introduced in July 2003.” [71c] (p22)

5.23 However, the EC report 2004 also stated that “The armed forces in Turkey continue to exercise influence through a series of informal mechanisms. On various occasions, military members of the NSC expressed their opinion on political, social and foreign policy matters in public speeches, briefings or statements to the media and declarations.” [71c] (p23)

Local Government

5.24 The Netherlands Ministry of Foreign Affairs 2002 reported that

“Turkey is divided into 81 provinces (il), each headed by a provincial governor (vali). Provinces are subdivided into districts (ilçe), administered by a district governor (kaymakam). Districts may be further broken down into sub-districts (bucak). Governors are appointed for a number of years by the central authorities in Ankara, to which they are directly accountable via a chain of responsibility extending from district governor to provincial governor and on to the central authorities in Ankara. The role of governors is to represent the central authorities in the provinces.” [2a] (p18)

5.25 The Netherlands report also stated that “In addition to centrally administered bodies, there are also decentralised authorities directly elected by the population, the main ones being the mayor and municipal council for a municipality (belediye) and the village or neighbourhood head (muhtar).” [2a] (p19)

5.26 The Netherlands report continued

“Every locality (including areas within large cities) with over 2,000 inhabitants is entitled to elect a mayor and municipal council. The mayor enjoys limited powers in areas including infrastructure (public transport, water and gas supplies, etc) and public works (parks and gardens, pavements, refuse collection, etc). In some cases, mayors and provincial or district governors find themselves at odds with one another, with the former being more representative of local interests and the latter of central government interests.” [2a] (p19)

5.27 As noted by the Netherlands Ministry of Foreign Affairs 2002

“Every village or neighbourhood has its own head, often known by the name ‘muhtar’. The muhtar acts as an intermediary between the population and the authorities, being the sole keeper of address records. The only official document that a muhtar can issue is a residence certificate (ikametgâh ilmühaberi). In theory, anyone taking up residence in or leaving a particular neighbourhood or village is supposed to report this to the local muhtar. In practice, that is often not done, with the muhtar not being approached until a need arises for a certificate of residence somewhere. [2a] (p20)

5.28 On 29 March 2004 the BBC reported that the local elections held on 28 March 2004 were won overwhelmingly by the ruling AKP. According to the article the AKP won 43% of the vote and secured 55 of the 81 mayoral posts including Istanbul and Ankara. The main opposition, centre-left Peoples Republican Party, took around 15% of the vote, with the right-wing Nationalist Action and True Path parties winning around 10%. Turkey’s main pro-Kurdish movement the Democratic Peoples Party (DEHAP) and its left wing allies retained control of five major cities in the predominantly Kurdish Southeast. They included the regions biggest city, Diyarbakir. [66v]

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The Judiciary

[See also Annex F "Administration of justice" and Annex G for a comprehensive description of the court system in Turkey\)](#)

5.29 The USSD 2004 outlined that:

“The Government carried out extensive legal reforms during the year aimed at meeting the requirements for European Union (EU) membership. In September [2004], Parliament adopted a new Penal Code and, in May, approved a package of constitutional amendments. Elements of the new Penal Code included: Sentences for torture convictions were increased; "honour killings" - the killing by immediate family members of women suspected of being unchaste - were defined as aggravated homicides; the statutes of limitations for all crimes were lengthened; and actions aimed at preventing free religious expression were defined as a crime punishable by 1 to 3 years' in prison. “[5c] (Introduction)

5.30 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, published in December 2004 noted that:

“Turkey’s judicial system is characterized by the opposing pulls of, on the one hand, the enlightened reforms passed since 2001 and, on the other, the more traditional attitudes of the court system and especially the judges. While the reforms have increased judicial independence, seriously curbed the role of the military in the justice system, and

fundamentally revised the penal code, the judges, prosecutors, and Ministry of Justice continue to be dominated by pre-reform ideas about defending national integrity, governmental institutions, and Turkish identity. Thus, as in other areas, implementation is the major stumbling block, although not the only one.” [62c] (p9)

5.31 As noted in the European Commission report 2004

“Since 1999, some important improvements have been made to the Turkish judicial system. The State Security Courts have been abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). New specialised courts have been set up in order to improve the efficiency of the judicial system. Legal amendments have improved the rights of defence. A Justice Academy has been established and training on international law and human rights for judges and prosecutors has been intensified.” [71c] (p23-p24)

5.32 The EC report 2004 continued

“The package of constitutional amendments adopted in May 2004 also revised Article 90 of the Constitution, enshrining the principle of the supremacy of international and European treaties ratified by Turkey over domestic legislation. Where there is conflict between international agreements concerning human rights and national legislation, the Turkish courts will have to apply the international agreements. [71c] (p24)

5.33 The USSD 2004 reported that “The Constitution provides for an independent judiciary; however, the judiciary was sometimes subject to outside influences. There were allegations of corruption in the judiciary.” [5c] (Section 1e)

5.34 The USSD 2004 continued:

“The Constitution prohibits the Government from issuing orders or recommendations concerning the exercise of judicial power; however, the Government and the National Security Council (NSC), an advisory body to the Government composed of civilian government leaders and senior military officers, periodically issued announcements or directives about threats to the State, which could be interpreted as general directions to the judiciary. “[5c] (Section 1e)
(See also section 5 on National Security Council (MGK) or (NSC)

5.35 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, noted that:

“The Turkish constitution provides for an independent judiciary, but the court system is not in fact entirely separate from the executive. The executive plays a strong role in judicial training, appointment, promotion, and financing. Training of judges is inadequate, and because there is no proper review of cases, many of those that end up in the courts result in acquittal due to lack of merit. Public prosecutors

in Turkey have a status very close to that of judges, both functionally and symbolically, thus placing the defense in an inferior position. Prosecutors are sometimes pressured by the Ministry of Justice to pursue cases without merit, and the government issues circulars instructing public prosecutors on how to interpret certain laws.” [62c] (p9)

5.36 The USSD 2004 also stated that “The legal system did not discriminate in law or in practice against ethnic, religious or linguistic minorities. However, legal proceedings were conducted solely in Turkish, with interpreting available sometimes, which seriously disadvantaged some defendants whose native language was not Turkish.” [5c] (Section 1e)

5.37 The European Commission 2004 recorded:

“As regards the functioning of the judiciary, in general trials last for long periods and are subject to repeated adjournments. There has been a reduction in the average trial period in the Serious Felony Courts, the Criminal Courts of First Instance and the Juvenile Courts. Following an increase in the number of civil courts from 3 217 in 2002 to 3 358 in 2003, the average number of cases before each court decreased from 616 in 2002 to 604 in 2003. The average trial period before the Commercial Courts decreased from 434 days in 2002 to 417 in 2003, while the average trial period before the General Civil Courts decreased slightly from 242 days in 2002 to 240 days in 2003. [71c] (p26)

Military Courts

5.38 The European Commission Regular Report on Turkey’s progress towards Accession 2003, published November 2003 noted that:

“The Law on the Establishment and Trial Procedures of Military Courts has been amended with a view to ending military jurisdiction over civilians and to aligning the provisions of the military code of procedure with reforms adopted by previous packages concerning freedom of expression. As a result, military courts will no longer try civilians including juveniles held responsible for ‘inciting soldiers to mutiny and disobedience, discouraging the public from military duty and undermining national resistance’ under Article 58 of the Penal Code. [71b] (p20)

State Security Courts (DGM)

5.39 In April 2004 the Turkish Daily News reported that the Government proposed 10 amendments to articles of the constitution. One of these changes was annulling Article 143 and the abolition of State Security Courts. [23n] The Constitution package was approved by Parliament on the 7 May 2004 and sent to the President. [23o]

5.40 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, noted that:

“Another [in addition to the introduction of the new penal code in September 2004] major change to the justice system has been the May 2004 abolition of State Security Courts. These courts, comprising both

civilian and military judges, tried cases against the integrity of the state and had been accused of human rights abuses and an absence of due process...The cases formerly under their jurisdiction have been passed to other courts. The end of the State Security Courts is widely considered to be positive, although it remains to be seen whether the types of cases formerly tried in them will be any better served by the new system.” [62c] (p10)

5.41 As stated by the European Commission 2004:

“As part of the package of constitutional amendments adopted in May 2004, the State Security Courts were abolished. Jurisdiction over most of the crimes falling within the competence of the State Security Courts – principally organised crime, drug trafficking and terrorist offences – has been transferred to newly-created regional Serious Felony Courts. Some crimes formerly heard by the State Security Courts, notably under Article 312 of the Penal Code, have been transferred to the jurisdiction of the existing Serious Felony Courts.... The office of the Chief Public Prosecutor for State Security Courts was also abolished; prosecutions before the Regional Serious Felony Court are handled by the office of the Chief Public Prosecutor. Suspects before both types of Serious Felony Courts enjoy identical rights, including the right to consult a lawyer as soon as they are taken into custody.” [71c] (p24)

5.42 Amnesty International’s Summary of Concerns September 2004 stated that “Human rights defenders welcomed the move to abolish the much criticized State Security Courts, but strongly urged that the establishment of special heavy penal courts which would deal with organized crime, ‘terrorism’ and crimes deemed to endanger state security be more than simply a change of name for the same institution.” [121] (p56)

The Constitutional Court (Anayasa Mahkemesi)

5.43 As outlined on the website of the Turkish Embassy in Washington DC (1999) “The Constitutional Court is first established by the Constitution of 1961, following the example of certain post-world War II constitutions, a system of judicial control of the constitutionality of laws. This system was maintained with certain modifications by the Constitution of 1982.” [19] (p3)

5.44 The USSD 2004 reported that

“The Constitutional Court examined the constitutionality of laws, decrees, and parliamentary procedural rules and heard cases involving the prohibition of political parties. If impeached, ministers and prime ministers could be tried in the Constitutional Court. However, the Court could not consider ‘decrees with the force of law’ issued under a state of emergency, martial law, in time of war, or in other situations with the authorization of Parliament.” [5c] (Section 1e)

5.45 The Turkish Embassy in Washington DC also stated that “The Constitutional Court consists of 11 regular members and 4 alternate

members. All judges of the constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey.” [19] (p3)

5.46 See Section 6C on the European Court of Human Rights (ECHR).

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Legal Rights / Detention

5.47 The USSD 2004 reported that

“The law prohibits arbitrary arrest and detention; however, the Government did not always observe these prohibitions in practice. During the year [2004], police routinely detained demonstrators. Police detained dozens of members of the legal pro-Kurdish party DEHAP on several occasions. Police continued to detain and harass members of human rights organizations and monitors. The Government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballah.” [5c] (Section 1d)

5.48 The USSD 2004 continued: “Regulations on detention and arrest procedures require authorities to notify relatives as soon as possible of an arrest, and authorities generally observed this requirement. “ [5c] (Section 1d)

5.49 The USSD 2004 further noted that:

“Lengthy pretrial detention was a problem. The Constitution provides detainees the right to request speedy arraignment and trial; however, judges have ordered that some suspects be detained indefinitely, at times for years. Most such cases involved persons accused of violent crimes, but there were cases of those accused of nonviolent political crimes being held in custody until the conclusion of their trials. Detainees could be held for up to 6 months during the preliminary investigation period. If a case was opened, the pretrial detention period could be extended for up to 2 years. If the detainee was charged with a crime carrying a maximum punishment of more than 7 years, a court could further extend the detention period. Persons detained for individual crimes under the Anti-terror Law have to be brought before a judge within 48 hours. Persons charged with crimes of a collective, political, or conspiratorial nature can be detained for an initial period of up to 4 days at a prosecutor's discretion and for up to 7 days with a judge's permission, which was almost always granted.” [5c] “Regulations on detention and arrest procedures require authorities to notify relatives as soon as possible of an arrest, and authorities generally observed this requirement. “ [5c] (Section 1d)

5.50 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005:

“According to the Turkish Code of Criminal Procedure (CMUK) law enforcement authorities are required both to keep detention records and to issue documentary evidence on the case to the suspect.

According to Mr. Turan, these are the most commonly used documents in that respect: *Yakalama Tutanagý* – a form confirming the detention of the suspect. *İçisleri Bakanýgyí Süphelive Sanýk Haklarý Formu* – a conformation that the detainee has been cautioned about his rights. *Üst Arama Tutanagý* – a form documenting a body check, if carried out. *Te shis Tutanagý* – a form documenting the identification of the suspect. *Serbest Býrakama Tutanagý* – a confirmation on the release of the detainee. *Adlý muayenesi* or *adlý tip rapor* – medical examination report. All lawyers I asked about this issue, agreed that one could not take for granted that law enforcement authorities really issue these documents to the (released) suspect – although required by regulations on detention and arrest procedures. Many detainees would not demand their issuance, mostly because they do not know their rights or because they do not dare to ask. In many such cases the police would refrain from issuing the documents.” [16] (p21)

5.51 As noted in the Amnesty International Summary of Concerns September 2004

“Reports continued of unofficial detention, with a suspect picked up for questioning by the law enforcement authorities, typically driven around in a car or taken to a deserted place for questioning or to a building not identified as an official place of detention and with subsequently no records that the person has ever been detained. Though it has not been possible to claim an increase in the practice, that fact that reports of such incidents continued pointed to a severe failure in the chain of command among some law enforcement authorities.... Unofficial detention continued to be a serious impunity issue since in most reports the perpetrators were plain-clothed police officers in unmarked police cars.” [12] (p59)

5.52 Right to legal advice

The USSD 2004 noted that:

“The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time. In practice, authorities did not always respect these provisions and most detainees did not exercise these rights, either because they were unaware of them or feared antagonizing authorities. Once formally charged by the prosecutor, a detainee is arraigned by a judge and allowed to retain a lawyer. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the court determines that the accused is likely to flee the jurisdiction or destroy evidence. “ [5c] (Section 1d)

5.53 The USSD 2004 continued:

“Private attorneys and human rights monitors reported uneven implementation of these regulations, particularly with respect to attorney access. According to HRA and a number of local bar

associations, only approximately 5 percent of detainees consulted with attorneys. HRA claimed police intimidated detainees who asked for attorneys, sometimes telling them a court would assume they were guilty if they consulted an attorney during detention. A number of attorneys stated that, unlike in past years, law enforcement authorities did not generally interfere with their efforts to consult with detainees charged with common crimes; however, they said they continued to face difficulties working with detainees charged with terrorism.” [5c] “Regulations on detention and arrest procedures require authorities to notify relatives as soon as possible of an arrest, and authorities generally observed this requirement. “ [5c] (Section 1d)

5.54 The USSD 2004 also recorded that:

“The CPT [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment] reported that, during its September 2003 visit to the southeastern region, it discovered that only between 3 and 7 percent of recent detainees in the area had consulted with an attorney. A number of former detainees told CPT officials they did not know they had the right to consult with an attorney at no cost if they could not afford to hire one. Several said police refused their requests for access to an attorney or discouraged them from consulting an attorney, for example by implying they would have to pay the attorney. The CPT stated it was skeptical [sic] of records indicating that a high proportion of detainees held in antiterror departments had waived their right to consult an attorney and concluded that authorities in these departments were reluctant to allow attorney access. “ [5c] (Section 1d)

5.55 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ noted that:

“Under the regulations on detention procedures all detainees are entitled to immediate access to a lawyer and to meet with a lawyer at any time. Some sources reported, however, that many detainees do not exercise these rights, either because they were not informed of these rights or because they feared making demands would antagonise the security personal [sic]. At the same time, the authorities still do not always respect these provisions. However, all sources I talked to (with the exception of the head of TOHAV [Foundation for Society and Legal Studies] in Istanbul, Sehnaz Turan), confirmed that access to a lawyer has been improving in recent years.” [16] (p19)

5.56 As outlined in the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (published on 18 June 2004), “Notwithstanding the above-mentioned legal provisions, the facts found during the September 2003 visit show that in practice in the Adana, Mersin and Diyarbakir regions, the great majority of detained persons are not benefiting from access to a lawyer whilst in police or gendarmerie custody.” [13b] (p14)

5.57 The European Commission 2004 reported that

“NGOs have reported that access to a lawyer during pre-trial detention is improving. Official sources indicate that individuals are more inclined to exercise this right; of those accused of crimes related to the State Security Courts in the first quarter of 2004, 46% requested and were given access to their lawyers, whereas the figure for the same period in 2003 was 28%. However, such access varies throughout the country.... While there has been an improvement in informing relatives when suspects are held in custody, this obligation is reportedly still not always respected.” [71c] (p35)

Detention for questioning prior to formal arrest

5.58 The USSD 2004 noted that “Except when police apprehend suspects in the commission of a crime, a prosecutor must issue a detention order for a person to be taken into custody. The maximum detention period for persons charged with individual common crimes is 24 hours. Persons charged with collective common crimes can be held for 48 hours.” [5c] (Section 1d)

5.59 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ related that:

“According to Mr. Islambay, law enforcement authorities are required to report to the Public Prosecutor on each case-inquiry. This report – *Fezleke* – contains all information available on the case, such as the type of the crime, names of witnesses, victims, suspects, date of the crime and so on...According to Mr. Islambay, the attorney is entitled to receive a copy of the documents from the Prosecutors Office and would thus have access to this subject index if verification was required...A person claiming to have been summoned to criminal proceedings or to commencement of sentence should be able to give documentary evidence of that...Both Mr. Islambay and Mr. Turan claimed that persons on the run could not get access to en [sic] (authentic) warrant. He or she (or the attorney) would get a copy of the document at the earliest after detention.” [16] (p22-23)

5.60 The Turkish Ministry of the Interior stated in a report of September 2003: “In our country [Turkey] detention is carried out by the security forces whereas arrest is a court decision. Nonetheless the police can detain a person on their initiative but have to inform [the] Public Prosecutor’s Office within 24 hours”. [17]

5.61 According to figures obtained from the Human Rights Association of Turkey (IHD) large numbers of Turkish citizens are detained by the police but never arrested.

Date	Number of persons detained	Number of persons arrested
1998	42,991	3,659

1999	50,318	2,105
2000	35,007	1,937
2001	44,181	2,955
2002	21,612	1,148
2003	9,648	1,196
Jan –June 2004	3,688	371

[73a] (p1) [73b] (p1) [73c] (p1) [73d] (p1) [73e] (p1) [73f] (p3) [73g] (p2)

The problem of falsified documents

5.62 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ noted that:

“The Norwegian Directorate of Immigration has repeatedly been presented so-called documents,, proving“ that an asylum-seeker was wanted by the Turkish authorities. Some of these documents were – according to the applicant – issued either by the Gendarmerie/Police or by the Ministry of Justice. All lawyers I asked about this invalidated the possible authenticity of such documents. Neither law enforcement authorities nor any other Turkish official were entitled to issue such a confirmation. Neither detention-orders, nor warrants were handed out to the suspect or any other third person before the suspect was detained. Both Mr. Islambay and Mr. Demirtas claimed, however, that it was widely known that such (and other) „documents“ could be attained through bribery. Tanrýkulu and Demirtas mentioned that two court ushers from the former State Security Court in Diyarbakýr had been arrested in the summer of 2004 and had been charged with corruption for selling fake documents. Such cases could be found all over the country and the two officials from Diyarbakýr where only the tip of the iceberg. Demirtas and Islambay further mentioned that the problem of corruption was widespread and that this also applied to lawyers. One person working at a lawyers’ office told me that they repeatedly had declined requests to produce fake documentary evidence, „sufficient“ for asylum applications. One lawyer stated that he had repeatedly rejected offers from Turkish citizens already staying in Western Europe, who offered him between 5,000 and 10,000 Euro for a complete „asylum-file“. The same lawyer told me that it was considered „easy“ to get fake documents in Turkey and assumed that „most of the documents presented to European Migration authorities are fake“. [16] (p24-25)

5.63 The Norwegian report continued:

“One lawyer stressed that it might prove difficult and unreliable to judge documents only by the looks of it since different types of forms (or only letters) may be used at different prosecutors offices (e.g. *Fezlekes*). Only a lawyer could conduct a reliable verification, since he/she could compare the document’s contents (such as case-numbers) with the respective registries. Another lawyer told me that he had verified

several documents for European Immigration authorities and that most of these documents had proved to be falsified. He had further noticed that most of these documents (some of them being „warrants“) referred to article 169 in the (old) Turkish Criminal Code. According to him, this article does not play an important role any more and it rarely leads to punishment: „You can send the persons with article 169 back to Turkey, nothing will happen to them.“ However, persons who are wanted for activities sanctioned by articles 125 and 168 in the Penal Code might still face severe problems after return, according to Demirtas . He stressed that some of these persons really might be in need of protection and he suggested that documentation on such cases should be carefully verified. [16] (p25)

The General Information Gathering System (GBTS)

5.64 The Swiss NGO Schweizerische Flüchtlingshilfe (Swiss Organisation for Refugees) stated in its report on Turkey published in June 2003 that

“There are a number of different information systems in Turkey. The central information system is known as the GBTS (Genel Bilgi Toplama Sistemi – General Information Gathering System). This system lists extensive personal data such as information on arrest warrants, previous arrests, foreign travel restrictions, avoidance of military service, desertion, refusal to pay military tax and delays paying tax. Served sentences are as a rule removed from this information system and entered onto the database of criminal records (Adli Sicil). [8] (p41)

5.65 As outlined in the September 2003 Report on GBTS system by the Turkish Ministry of Interior, the GBTS is operated by the Anti -Smuggling Intelligence and Data Collection Department of the Turkish National Police. The Ministry of the Interior further state that “In the GBT system records of the following are kept as a general rule:”

- i) Persons who have committed a crime but have not been caught
- ii) Persons who have committed serious crimes such as organised crime, smuggling, drugs related crimes, terrorism, unlawful seizure, murder, fraud;
- iii) Persons who have search warrants issued including those who have an arrest warrant issued “in absentia”;
- iv) Persons who are barred from public service
- v) Missing persons
- vi) Persons of responsibility within political parties who have been convicted of crimes defined in the Political Parties Law No.2908, article 4/4;
- vii) Stolen, lost, appropriated motor vehicles, firearms, identification documents. [17]

5.66 The Ministry of the Interior stated that records of persons who have committed the above-mentioned crimes are retained even if they have already served their sentences. [17]

5.67 As stated by the Turkish Ministry of the Interior in September 2003, records are erased from the system under the following circumstances:

- i) Upon the death of a person convicted of a crime by a court;
- ii) As soon as a court decision of non-pursuit, acquittal or expiry of time limitation reaches the Turkish National Police (TNP) regarding a person who was previously registered in the GBTS;
- iii) In case of a crime other than those listed above, when the person is caught;
- iv) In case of stolen/lost/appropriated property, when the property in question is found. [17]

5.68 Only the latest warrant of arrest is held on file. The others are cancelled. Information about convicted persons is stored at the Judicial Registry Office (Adli Sicil Mudurlukleri), rather than on the GBTS. [17]

5.69 The Turkish Ministry of the Interior stated in September 2003 that "Only records of people who are under judicial proceedings or judicial examination are kept on the GBTS. No records of people are kept on the system who are detained and [subsequently] released by the security forces." [17]

5.70 The Swiss Organisation for Refugees in its report published June 2003 stated that "Experience has shown, however, that despite its name, this [GBTS] system does not by any means contain all the information relating to a given individual. Concrete examples have demonstrated that individuals are generally only entered onto the system following prosecution or issue of an arrest warrant by the public prosecutor or a court." [8] (p41)

5.71 However, the Swiss Organisation for Refugees also stated that "In several cases we have discovered that individuals who have been denounced as PKK activists or sympathisers show up as not being sought and therefore do not appear on the register even though authentic police statements prove that they have been denounced by name." [8] (p41)

5.72 The report continued "It should be mentioned that in addition to the GBTS central information system, the various security forces each have their own information systems...They include the registers of the police, the anti-terrorist department, the gendarmerie, JITEM, the military secret service etc. It is therefore perfectly possible for someone not to be listed on the central system but to be sought by the anti-terrorist unit." [8] (p41)

5.73 The Swiss Organisation for Refugees further stated that

"Neither can the absence of a data entry or current investigation or the lack of a passport be taken as evidence that an individual is not in danger. Despite the absence of entries in the central information system, the individual concerned might be listed on one of the other information systems. This must certainly be assumed in the case of individuals who have already been taken into custody by the police, gendarmerie or some other branch of the security forces in the past." [8] (p41)

Death Penalty

5.74 In January 2004 the BBC reported that Turkey had agreed a total ban on capital punishment when it signed Protocol 13 of the European Convention on Human Rights which prohibits the death penalty in all circumstances, including in times of war and at times of danger of war. [66i]

5.75 The European Commission 2004 reported that “Turkey has abolished the death penalty in all circumstances.... Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances was signed in January 2004. Any remaining references to the death penalty were removed from Turkish legislation as part of the May 2004 constitutional amendments.” [71c] (p33)

5.76 As noted in a BBC article dated 19 July 2004 the maximum term of imprisonment under Turkish law is 36 years. [66aa]

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Internal Security

Police

5.77 The USSD 2004 reported: “The Turkish National Police (TNP), under Interior Ministry control, are responsible for security in large urban areas...There were allegations of police corruption.” [5c] (Section 1d)

5.78 The Netherlands Ministry of Foreign Affairs 2002 reported that “The sphere of operation of the police, coming under the Ministry of the interior, is confined to urban areas. For all cases involving political offences, with or without violence, each local police force has a special anti-terrorist section (Terörle Mücadele Subesi). There are also mobile units, known in Turkish as Çevik Kuvvet (flying squad), to deal with demonstrations and disturbances of public order.” [2a] (p20)

5.79 The USSD 2004 also reported that “The TNP and Jandarma were effective and received specialized training in a number of areas, including human rights and counter-terrorism. Both police and Jandarma received human rights training.” [5c] (Section 1d)

Jandarma/ Gendarmerie

5.80 The USSD 2004 reported that “The Jandarma, paramilitary forces under joint Interior Ministry and military control, are responsible for policing rural areas. The Jandarma are also responsible for specific border sectors where smuggling is common; however, the military has overall responsibility for border control.” [5c] (Section 1d)

5.81 The Netherlands report on military service July 2001 reported that “As police powers are restricted to towns and cities, the area outside them falls within the competence of the Jandarma. The Jandarma maintain a network of police posts throughout Turkey. Police duties include both maintaining public order and enquires into offences. This means that the Jandarma are responsible for police duties in 93.5% of Turkish territory.” [2b] (p7)

5.82 The Netherlands Ministry of Foreign Affairs 2002 reported that “In addition to policing, the Jandarma also have to combat smuggling, guard the outer perimeters of prisons and trace fugitives evading military service. Conscripts make up 90% of their strength. The jandarma have their own intelligence service: the JITEM.” [2a] (p21)

Special Forces

5.83 The Netherlands Ministry of Foreign Affairs 2002 reported that

“For the purposes of combating the PKK, the armed forces have some 200,000 troops stationed in the Southeast, including highly trained commandos. There are also special teams (Özel Tim, plural: Özel Timler), coming under the army, police or jandarma, involved in combating the PKK. Some 15,000 to 20,000 members of such teams, all of whom have volunteered upon completion of their national service, are heavily armed and specially trained in anti-guerrilla warfare.” [2a] (p21)

Intelligence agency (MIT)

5.84 According to the Netherlands Ministry of Foreign Affairs 2002 “There is also an intelligence service: the MIT (Milli Istihbarat Teskilati - National Intelligence Organisation)”. [2a] (p20)

Village guards

5.85 As noted in the Netherlands Ministry of Foreign Affairs 2002

“When the state of emergency was declared in 1985 a system of village guards was also established in the south-east whereby villages, though not forcibly, supplied adult men to guard the villages and provide general assistance and information. Village guards were thus supposed to work together with the army and Jandarma in their fight against the PKK. The willingness of the local population to take part in the village guard system has always largely depended on tribal loyalties. Some Kurdish tribes voluntarily supplied village guards while other tribes have constantly refused to participate because of their PKK sympathies. This has led to entire villages refusing requests to supply village guards while others voluntarily co-operate.” [2a] (p136)

5.86 The Netherlands report continued

“The village guard system has always been highly controversial. Not infrequently villages which had shown reluctance to become involved in the conflict have suffered reprisals, including the burning of villages. The village guard system also makes for abuses of power. Many village guards have been involved in crimes ranging from murder, supporting the PKK, and drug smuggling, to bride abduction. Thousands of proceedings are pending against village guards, with almost 24,000 having been dismissed since the system was introduced in 1985.” [2a] (p136)

5.87 As noted in the European Commission 2004

“The issue of the village guards remains unresolved. Notwithstanding the judicial procedures against village guards involved in murders, official figures state that 58,416 village guards are still on duty (as opposed to 58 551 last year [2003]). Moreover, although the Turkish authorities state that no village guards have been appointed since 2000, NGOs suggest that new village guards have been recruited in response to the increasing number of clashes between security forces and illegal armed groups. In many cases, authorisation to return to villages is reportedly conditional on the willingness of the returnees to serve as village guards. A petition containing over 30,000 signatures protesting against the village guard system was registered with the Petitions Committee in the Parliament in October 2003.” [71c] (p51)

5.88 The USSD 2004 reported that:

“The Government continued to organize, arm, and pay a civil defense force of approximately 58,000, mostly in the southeast region. This force, known as the village guards, was reputed to be the least disciplined of the security forces and continued to be accused repeatedly of drug trafficking, rape, corruption, theft, and other human rights abuses. Inadequate oversight and compensation contributed to this problem, and in some cases Jandarma allegedly protected village guards from prosecution. In addition to the village guards, Jandarma and police special teams were viewed as those most responsible for abuses.” [5c] (Section 1c)

5.89 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ noted that:

“The Village Guard-system, which was established in 1985 after the state of emergency was declared in South Eastern Turkey, is still in force. (The legal basis for the Village Guard-system in the Southeast was given in law No. 3175, dated 26.3.1985, which was amended in 1990 by law No. 3612. In contrast to law No. 442, dated 1924, the newer law only refers to so-called “temporary” village guards (*gecici köy korucular*), and not to other types of village guards.) Its main task is to support the Gendarmerie and the Army in their fight against the Kurdish rebels. According to diplomatic sources the bulk of the village guards (*köy korucusu*) is presently located in the provinces of Van, Bingöl, Siirt, Hakkari and S irnak. During the Iraq-war in 2003, some Village-Guards were relocated to the border in order to prevent PKK/Konra-Gel-militants from entering Turkey. The same source estimated that the number of village guards currently is at about 60,000.” [16] (p29)

5.90 The Norwegian report continued:

“Mr. Selahattin Demirtas, head of Human Rights Association in Diyarbakır, told me that the number of village guards had decreased

from about 150,000 in the year 2000 to 56,000 in 2004. The head of DEHAP in the province of Diyarbakır, Birtane, estimated that the present number of village guards was about 50,000. According to the newspaper *Yeni Safak* [of 20 July 2004] the Turkish General Staff numbered the total village guard force at 87,296. However, in contrast to the sources consulted during my trip, the General Staff distinguished between 28,754 so-called volunteer village guards (*gönüllü korucular*) and 58,542 “temporary” Village Guards (*gecici köy korucular*).” [16] (p29)

5.91 The Norwegian report continued:

“Mr. Celahettin Birtane, head of DEHAP in Diyarbakır province, was the only source consulted who claimed that the authorities still recruit village guards, although in much smaller numbers than it was the case before the year 2000. He told me that the authorities had recently recruited some village guards in the provinces Hakkari and Sýrnak. None of the other sources could confirm that recruitment to the Village Guard-force is still going on. Neither could any of the persons I talked to confirm that any cases of *forced* recruitment had occurred in recent years. However, all sources consulted claimed that forced recruitment had been practiced before the end of the state of emergency, and in particular in the 1990’s. Mr. Birtane told me that he personally knew cases of forced recruitment from his home-village close to the city of Diyarbakır. The other sources did not give any concrete examples of that kind.” [16] (p29-30)

5.92 According to the Netherlands Ministry of Foreign Affairs 2002

“The abolition of the village guard system has been contemplated at government level for some time now. A few small-scale retraining projects for village guards have recently been announced. However, the village guard system generates a steady income equivalent to EUR 300, which people will not always be keen to give up. Furthermore, disarmament will give rise to problems since village guards come from different tribes, which not infrequently have difficult or poor relations with each other. It is assumed that none of the tribes will want to be the first or only ones to surrender their weapons.” [2a] (p137)

5.93 The Netherlands report 2002 continued

“In the past individuals recruited as village guards have sometimes been caught in the crossfire. On the one hand their refusal to serve as village guards could be interpreted as implicit support for the PKK, while on the other hand their acceptance of the office could make them PKK targets. Since the withdrawal of PKK fighters from Turkey at the end of 1999 there has been practically no further pressure to speak of from the PKK. Now that the recruitment of village guards has ceased, this issue is no longer of any great importance. In the past refusal to serve as village guard never used to lead to sanctions from the national authority. Pressure from local authorities following refusal to serve as a village guard can be avoided by settling elsewhere, for instance in one

of the major cities outside south-east Turkey. This also applies to persons who are under pressure from the local community because they agreed in the past to serve as a village guard.” [2a] (p137)

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Prisons and Prison Conditions

5.94 The Netherlands Ministry of Foreign Affairs 2002 reported that “According to the Minister for Justice, as at 23 May 2001 Turkey had 554 prisons: 513 closed institutions, 36 open prisons, one closed institution for women and children, one closed institution for young offenders and three ‘educational institutions’ for juveniles.” [2a] (p29)

5.95 As noted in the International Centre for Prison Studies Prison Brief for Turkey (website information last updated on 13 February 2005), in 2004 the number of establishments / institutions was 503. The official capacity of prison system was 70,994 (at April.2004) while the total prison population (including pre-trial detainees / remand prisoners) totalled 67,772 at March 2004 with 49% pre-trial detainees / remand prisoners (March 2004 - 38.9% untried, 10.2% convicted but not finally sentenced). [78]

5.96 The USSD 2004 reported that:

“Conditions in most prisons remained poor, although the Government made significant improvements in the system, and the country's best prisons maintained high standards. Underfunding, overcrowding, and insufficient staff training remained common problems. The HRF reported that the Government provided insufficient funds for prison food, resulting in poor-quality meals; food sold at prison shops was too expensive for most inmates, and there was a lack of potable water in some prisons. According to the Medical Association, there were insufficient doctors, and psychologists were only available at some of the largest prisons. Some inmates claimed they were denied appropriate medical treatment for serious illness.” [5c] (Section 1c)

5.97 However, the European Commission 2004 reported that “With regard to the prison system the situation has improved significantly since 1999. Institutions such as the Enforcement Judges and Monitoring Boards have been set up and a number of recommendations of the CPT have been implemented. [71c] (p36)

5.98 The European Commission 2004 also reported that “According to official sources, as of December 2003, there were 64,296 persons in prisons and detention houses, of whom 37,056 were convicted prisoners and 27,240 were prisoners detained on remand.”

5.99 The EC report 2004 continued

“NGOs have reported that visitors continue to sometimes encounter difficulties meeting prisoners, although intimidating searches have ceased. A circular was issued in June 2004 reminding the gendarmerie that lawyers entering prisons should only be searched if they activate a metal detector and that searches are to be carried out respectfully. There are also reports of prisoners not receiving appropriate medical treatment.” [71c] (p36)

5.100 The USSD 2003 reported that “The Government maintained that prisons were staffed with doctors, dentists, psychologists, and teachers, although there were shortages in some areas. According to the Medical Association, there were insufficient doctors, and psychologists were only available at the largest prisons. Some inmates claimed they were denied appropriate medical treatment for serious illness.” [5d] (p5-6)

5.101 The USSD 2004 noted that:

“At any given time, at least one-quarter of those in prison were awaiting trial or the outcome of a trial. Men and women were held separately; most female prisoners were held in the women's section of a prison. Despite the existence of separate juvenile facilities, at times juveniles and adults were held in adjacent wards with mutual access. According to the Government, detainees and convicts were held either in separate facilities or in separate sections of the same facility. However, some observers reported that detainees and convicts were sometimes held together.” [5c] (Section 1c)

5.102 The USSD 2004 also noted that:

“The HRA [Human Rights Association] estimated that there were approximately 6,000 to 7,000 political prisoners, including leftists, rightists and Islamists. Of these, approximately 1,500 were alleged members of Hizballah or other radical Islamist political organizations. The Government claimed that alleged political prisoners were in fact charged with being members of, or assisting, terrorist organizations. According to the Government, there were 4,508 convicts and detainees held on terrorism charges at year's end.” [5c] (Section 1e)

5.103 The International Helsinki Federation report (IHF) of June 2004 reported that “The atmosphere in prisons continued to be tense and the conditions were generally inhuman and degrading. There were also reports of medical neglect of ill prisoners. According to the figures gathered by the HRFT, 19 people died in prisons in 2003: two due to medical neglect, ten committed suicide, two burned themselves, three were killed, and two died as a result of death fasts.” [10] (p8)

F - type prisons

5.104 According to the US State Department report 2002 (USSD), published 31 March 2003

“Until late 2000, prisons were run on the ward system and most prisoners lived in 30-100 person wards. Under the ward system prisoner’s accused of terrorism and those who shared similar ideological views were incarcerated together. In some cases, the ward inmates indoctrinated and punished fellow prisoners, resulting in gang and terrorist group domination of entire wards.... Between December 2000 and January 2001, the Ministry of Justice moved hundreds of prisoners charged with terrorism or organised crime to small-cell ‘F-type’ prisons. The F-type design more closely resembled prisons found in most developed countries; according to the Government, the F-type prisons were consistent with the Council of Europe’s Committee to Prevent Torture’s recommendations. However human rights groups and prisoners’ groups claimed that prison authorities isolate F-type inmates from each other and controlled prisoners’ access to water, food, electricity, and toilets. [5a] (p9)

5.105 The IHF report 2004 reported that “Problems concerning the F-type prisons continued in 2003. F-type prisons were criticized for possibly leading to isolation of prisoners and for lack of group activities. Since the introduction of the F-type prison system in 2000, hundreds of people have participated in death fasts against this type of prison. On 20 October [2003], the 10th group of death fast activists went on hunger strike.” [10] (p8)

5.106 The IHF report 2004 continued “With the two deaths in 2003, the number of persons who died because of death fasts protesting the existence of F-Type prisons reached 64. Between the beginning of actions related to F-type prisons and the end of 2003, a total of 113 persons have died for various reasons in relation to the introduction of this prison type.” [10] (p8)

5.107 The USSD 2004 noted that “According to the HRF, six people died during the year [2004] in hunger strikes protesting F-type (small cell) prisons. The Government reported that, since 2000, the President pardoned 189 inmates on hunger strike. As of September [2004], six hunger strikers remained in prison, according to the HRF.” [5c] (Section 1c)

5.108As noted in the USSD 2003

“Inmates in high-security F-type prisons were permitted to socialize in groups of 10 for up to 5 hours per week. In addition, they were able to participate in communal activities. According to HRF, as of October [2003], one prisoner continued a hunger strike to protest F-type prisons. The Government reported that the President pardoned 172 hunger strikers during the year. Two prisoners on hunger strike died during the year [2003], bringing total deaths to 107 since the start of the strikes in 2000, according to HRF. The Government alleged that terrorist groups forced weaker members to conduct the hunger strikes and threatened family members of those who wanted to quit.” [5d] (p6)

5.109 The European Commission 2004 reported that

“These [official] sources state that there are currently no hunger strikers on ‘death fasts’ in prisons, although NGOs report that some convicts remain on ‘death fast’. In September 2004 a delegation of judges from the ECtHR, accompanied by medical experts, conducted a fact-finding mission to Turkey in relation to applications from around 50 detainees allegedly suffering the after effects of being on long-term ‘death fast’. An investigation is presently being carried out by the Izmir Prosecutor’s office following allegations of systematic torture of juveniles in Buca Prison.” [71c] (p36)

5.110 The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Turkey in March and September 2002 and reported that

“F-type prisons do possess facilities (workshops, a gymnasium, an outdoor playing field, a library) for communal activities and a legal and regulatory frame work has been adopted which ensures that prisoners can have access to those facilities. However, the development of communal activities has been held back by the reluctance of prisoners held under the Law to Fight Terrorism (who constitute the great majority of the inmate population of F-type prisons) to make use of the above mentioned facilities.” [13a] (p9)

5.111 The CPT also reported its delegation heard no allegations of recent ill-treatment of prisoners in Sincan F-type Prison and, in particular no allegations of ill-treatment during the headcount procedure. The CPT also noted that the Turkish authorities had issued circulars stating that unless medical staff request otherwise, no officials are to be allowed to be present in the examination room and steps are to be taken so that they remain out of earshot when prisoners are receiving medical treatment. [13a] (p11)

5.112 However, the CPT also noted that in respect of Diyarbakir I prison some prisoners had no findings recorded after their medical examination on arrival, despite the fact that they undoubtedly bore injuries or displayed other medical conditions consistent with ill-treatment. [13a] (p12)

5.113 The European Commission 2004 reported

“Regarding the court cases related to the December 2000 operations to transfer prisoners to the new F-type prisons, in March 2004 a court found that the state had been at fault with regard to the death of a prisoner during these operations. The court considered that these operations had not been well planned and the use of force had been excessive. Current conditions of detention in F type prisons are considered to be of a high standard, although the isolation of prisoners remains a serious problem.” [71c] (p36)

Monitoring of prison conditions

5.114 The European Commission 2004 stated that “The now 131 Monitoring Boards continued to carry out inspections. Their work focuses on living

conditions, health, food, education and the rehabilitation of prisoners. In the period January to August 2004 the Monitoring Boards made 1,193 recommendations, of which 451 were acted upon. The Monitoring Boards' composition does not currently include a significant representation from civil society and their reports are confidential." [71c] (p36)

5.115 The EC report 2004 continued

"As of May 2004, the 140 Enforcement Judges had received 11 923 complaints on actions taken in respect to prisoners and detainees since the establishment of the system in 2001. Of the applications, 3 659 have been accepted and acted upon, 319 have been partially accepted and acted upon and 7 945 have been rejected by the Enforcement Judges. A large number of the applications (5 554) concerned disciplinary punishments. In December 2003, the Ministry of Justice issued a circular clarifying that complaints to Enforcement Judges should be forwarded without any prior screening. The training of Enforcement Judges has, to date, been inadequate." [71c] (p36)

5.116 The USSD 2003 reported that

"The Ministry of Justice, the General Directorate of Prisons, and the parliamentary Human Rights Committee regularly inspected prisons and issued reports. Prison Monitoring Boards--five-person visiting committees composed of nongovernmental experts such as doctors and lawyers--also conducted inspections. The 130 boards conducted 522 visits, prepared 1,638 reports, and made 3,664 recommendations for improvements to the Ministry of Justice. The Government reported that it took action on some of these recommendations, but lacked the funding to respond to others, including those related to crowding and lack of resources for activities. During the year, the 140 special prison judges received 11,923 petitions relating to prison conditions and sentences; they admitted 3,659 petitions, partially admitted 319, and rejected 7,945." [5d] (p6)

5.117 The USSD 2003 continued

"Human rights groups criticized the Government's selection of Monitoring Board representatives. Medical Association officials said the Government did not consult them on Board membership and selected only government-employed doctors for the bodies. The Society of Forensic Medicine Specialists reported that only two forensic specialists served on the Boards. Some bar associations also said that their preferred candidates were not selected." [5d] (p6)

5.118 The USSD 2004 noted that:

"The Government permitted prison visits by representatives of some international organizations, such as the CPT; however, domestic nongovernmental organizations (NGOs) did not have access to

prisons. The CPT visited in March, and conducted ongoing consultations with the Government. Requests by the CPT to visit prisons were routinely granted. [5c] (Section 1c) International humanitarian organizations were allowed access to "political" prisoners, provided they could obtain permission from the Ministry of Justice. With the exception of the CPT, which generally had good access, such organizations were seldom granted permission in practice." [5c] (Section 1e)

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Military Service

5.119 The Freedom House report 'Countries at the Crossroads 2005 – Turkey, noted that:

"The military holds a special place in the Turkish republic. Since Turkey's first military coup, in 1960, it has acted as the guarantor of Turkey's secularism, territorial integrity, and government functioning... While it has never stayed in power long, it used the first and subsequent coups, in 1971 and 1980, to increase its autonomy and enhance its role during civilian rule... Reducing the political influence of the military has been a prime concern of the EU. Beginning with the 2001 constitutional amendments, Turkey has confined the NSC to an advisory role with, as of August 2004, a civilian at its head; it has removed the military members from the higher education council and RTUK; and it has increased transparency and parliamentary oversight of military expenditures. The military is still not entirely subservient to the ministry of defense, and its budget remains disproportionately high... Public trust in the military is strong, and military schools are among the best in the country, thus contributing to the continued power and prestige of this institution." [62] (p10)

5.120 As noted by Kirsty Hughes in a paper dated December 2004 entitled 'The political dynamics of Turkish accession to the EU: a European success story or the EU most contested enlargement?'

"Major changes have been made to civil-military relations, and other elements of the democracy reforms, where progress has been made, are issues of high sensitivity to the powers and views of the military – from Cyprus to rights for the Kurds... Despite its support for the EU goal, the military still watch the political process extremely closely and periodically comment on political developments. Apart from its concern to defend the unitary Turkish state, and to ensure political reforms are not destabilising this aim, the military is, and will continue to, lose power as the reforms continue and as it moves towards a more democratic, professional army role... While some elements of the military will no doubt continue to resist and obstruct reform where they can, many commentators are optimistic that overall, as long as the political reforms move forward with public support and the EU goal draws closer, the military will accept a fundamental shift in its role." [77] (p23)

5.121 The Netherlands report on military service in Turkey July 2001 noted that:

“The army and military service are held in high regard by a large section of the population.... The army's popularity stems partly from the fact that public opinion is convinced that it is more or less immune from the corruption, which is widespread in Turkey.... The performance of military service is regarded by a large part of the population as a rite of passage ‘to become a man’. There are parents who will not allow their daughters to marry someone who has not yet performed his military service, and companies often prefer to employ someone who has discharged his military obligations.” [2b] (p12)

5.122 According to the Europa Regional Surveys of the World: The Middle East and North Africa 2005 as at 1 August 2003 the armed forces totalled 514,850 people (including 391,000 conscripts). The size of the army was 402,000 men, the navy 52,750 men, and the air force 60,100 men. There was a Jandarma numbering 150,000 and a coast guard of 2,200. Paramilitary forces totalled 152,200, 150,000 gendarmerie and 2,200 coastguard. [1d] (p1206)

5.123 According to Article 1 of the Military Act No.1111 (1927) every male Turkish citizen is obliged to carry out military service. [25] (p1) The Netherlands report 2001 states that the obligation commences on 1 January of the year in which a male citizen becomes 19 years old, and ends on 1 January of the year in which he reaches the age of 40. (The Turkish way of counting age differs from that in Western Europe, and this accounts for the fact that the Military Act refers to the 20th and 41st years). [2b] (p10)

5.124 The Turkish Daily News reported that on 17 July 2003 as part of reforms to increase the professionalism of the armed forces the standard length of military service was reduced from 18 months to 15 months. Some university graduates serving as officers are now conscripted for 12 months instead of the previous 16, while some privates will serve for six months instead of eight. This change has led to a 17 percent reduction in the number of conscripts in the Turkish armed forces. [23d]

5.125 The Netherlands report 2001 reported that “Persons of call-up age are not usually issued with passports, and cannot have passports renewed. In a small number of cases, and with the consent of the military authorities, a passport with a short period of validity is issued. The entry 'yapmistir' (done) or 'yapmamistir' (not done) in the passport indicates whether the holder has completed military service or not.” [2b] (p15)

Deferring military service

5.126 According to Article 35 of the Military Act No.1111 (1927) a number of provisions allow people liable to military service to defer their service, principally for educational reasons. In accordance with Article 35c, military service for those attending a school in Turkey or abroad is deferred until the end of the year in which they reach 29. Under Article 35e, the military service of university graduates who attend a post graduate programme is deferred

until the end of the year in which they reach the age of 33. Furthermore, for those post-graduate students whose studies in local or foreign post-graduate programmes are proved to be an innovation or development in the respective field of study, military service is postponed to the end of the year in which they reach the age of 36. [25] (p13-14)

5.127 According to the Netherlands report 2001 “In cases where the number of those eligible for military service exceeds the needs of the armed forces, certain university-educated professional groups such as doctors and teachers have the option of completing their service by exercising their profession in the service of a government body. However, they do first have to complete basic training of one month and ten days.” [2b] (p29)

Evasion of military service and punishment

5.128 According to the report ‘Refusing to Bear Arms: A world-wide survey of conscription and conscientious objection to military service’ by War Resisters International (April 1997) “According to art. 63.1a, those who evade the draft or desert from the army in peacetime receive a prison sentence of

- 1 month, for those who report within 7 days;
- 3 months, for those arrested within 7 days;
- 3 months to a year, for those who report voluntarily within three months;
- 4 months to a year and a half, for those arrested within three months;
- 4 months to 2 years, for those who report voluntarily after three months;
- 6 months to 3 years house of correction, for those arrested after three months.” [53] (p4)

5.129 According to the Netherlands report 2001

“As a general rule, normal prison sentences of less than one year can be commuted into a fine. In an individual case the judge determines in his judgement whether or not the prison sentence will be commuted into a fine. Prison sentences for evasion of registration/examination or enlistment or for desertion are generally commuted into fines, which must be paid after the end of military service. Heavy prison sentences handed down for evasion lasting longer than three months without giving oneself up may not, however, be commuted into fines. From the legal point of view, suspended sentences may not be imposed for evasion of registration/examination or enlistment or for desertion. Any sentence, which may be passed, does not imply a dispensation from further military service. It may therefore happen that repeat offenders are sentenced again because of a further attempt to evade military service. In the case of repeat offences it is less likely that a fine will be imposed. Ethnic origin plays no role in determining the sentence for evasion of military service.” [2b] (p37)

5.130 The Netherlands report 2001 continued

“The enforcement of final judgements in cases relating to evasion of military service (including desertion) takes place in military prisons if the sentence is six months or less and in normal prisons if the sentence

is more than six months. As a rule, the sentence is first enforced and then the conscript completes (the remainder of) his military service. In the case of desertion enforcement of the judgement may be deferred at the suggestion of the officers of the relevant military division until after military service has been completed.” [2b] (p38)

Conscientious objectors

5.131 The Netherlands report 2001 stated that Turkey does not recognise the refusal of military service on grounds of conscientious objection and the associated right to perform alternative service. [2b] (p44)

5.132 The report continued

“Since refusal of military service on grounds of conscientious objection is not recognised in Turkey as such, the conscientious objector refusing military service is viewed by military criminal law as a straight forward case of draft evasion. The person concerned is accordingly sentenced as described above, in precisely the same way as all other draft evaders, under article 63 of the Military Criminal Code. The individual conscripts motives for non-compliance with the military service obligation are not taken into account consideration in sentencing, so that refusal for reasons of principle attracts neither a heavier nor a lighter sentence.” [2b] (p45)

5.133 The Netherlands report 2001 reported that since 1995 organised associations of military service objectors have been in existence. The two most important are *Izmir Savas Karsitlari Dernegi* (Izmir Anti-War Association, ISKD) and the *Istanbul Antimilitarist Inisiyatif* (Istanbul Antimilitarist Initiative IAMI). The associations have a few dozen members. The secretary of ISKD is Turkey's best-known military service objector, Osman Murat Ülke. [2b] (p41)

5.134 According the Netherlands report 2001 “Apart from the (prison) sentences mentioned earlier in this chapter, conscripts who evade military service by residing abroad may lose their Turkish nationality if they cannot adduce any valid reason for evasion.” This may be done by decision of the Council of Ministers on the basis of Article 25 of the Law on Turkish nationality (No 403). [2b] (p39)

5.135 According to the Netherlands Ministry of Foreign Affairs General official report on military service July 2002 sources within military jurisprudence and the Turkish Ministry of the Interior and the Ministry of Foreign Affairs, decided in the second half of 2001 that Turkish citizenship would no longer be withdrawn from Turks living abroad before the age of 38. This would allow conscripts the opportunity to report to the Turkish Embassy in their country of residence before reaching this age to apply for an extension with retroactive effect. Withdrawal of citizenship may only be applied in the case of individuals who indicate to the Turkish Embassy in the country in question their point blank refusal to perform military service. This is because in such cases it is unlikely that the individuals concerned would apply for an extension before the age of 38. [2c] (section 6.6)

5.136 Under Article 8 of Turkish Nationality Law No. 403 (1964), Turkish citizenship may be restored even if the individual concerned is not residing in Turkey at that point in time. [26a] (p3) The Netherlands report July 2002 states that “An application for the restoration of Turkish citizenship can be granted if the applicant states that he is still going to perform military service. Turkish citizenship can still be recovered after the age of 40. The age of 40 only signals the end of military service age for individuals who have already performed military service.” [2c] [section 6.6]

5.137 See also Section 6C on Treatment of returned failed asylum seekers.

Posting after completion of basic training

5.138 The Netherlands report 2001 stated that “Every conscript's unit for posting after his basic training is determined by computer by the Directorate for the Recruitment of Conscripts in the Ministry of Defence.” The place of subsequent posting depends upon the basic training undergone, the place of registration and possible criminal record.” [2b] (p19)

5.139 The report continued

“Anyone who has been convicted of theft is therefore very unlikely to be placed in a unit responsible for managing an arms depot. Among others, spokesmen for the Turkish human rights association IHD and various military sources say that they do not believe that a record of past criminal offences, whether or not of a political nature, results in an extra-harsh posting by way of additional punishment....Spokesmen for the IHD also consider it unlikely that conscripts are screened on the basis of ethnic origin or religious or political convictions for the purpose of deciding on subsequent postings.” [2b] (p21)

Discrimination in the armed forces

5.140 The Netherlands report 2001 states that

“The armed forces operate a harsh regime. Non-commissioned officers and lieutenants in particular occasionally beat conscripts as a means of disciplining them. The use of insults – again by NCOs and lieutenants – to conscripts is a fairly regular occurrence.... Harassment and discrimination by fellow soldiers or non-commissioned officers occur, depending in particular on the local commander. However, it is not possible to say that any single group suffers systematic discrimination. According to Turkish human rights organisations and former soldiers, in many cases the problems stem from conflicts between conscripts themselves.” [2b] (p49)

5.141 The Netherlands report 2001 reported that “Systematic discrimination against Kurdish conscripts can be ruled out. At the level of the unit in which conscripts serve, the situation is very often dependent on the individual commander.” In addition the report continued “There is therefore no systematic discrimination against conscripts who are known to be left wing

activists. Again much depends on the commander of the respective unit.” [2b] (p50)

5.142 The report continues “Apart from occasional harassment, which depends entirely on fellow soldiers and the commander, Christian conscripts in the army encounter no discrimination” [2b] (p51) and “By comparison with the past, Jehovah’s Witnesses face hardly any problems during their military service.” [2b] (p52)

5.143 A Country of Origin Research of the Canada Immigration and Refugee Board, Ottawa dated 10 September 2004, entitled “Turkey: Military and societal treatment of homosexuals who have been deemed unfit to serve in the military and/or who have been discharged from the military due to their sexual orientation (January 2002 - September 2004)” gives an overview of these issues quoting a variety of sources. As stated in the report:

“*GLBTQ: An Encyclopedia of Gay, Lesbian, Bisexual, Transgender and Queer Culture* describes Turkey as having a "restrictive" military policy on homosexuals (2004), which prohibits military service by homosexuals (*GLBTQ* 2004; *Turkish Daily News* 17 July 2003). The Turkish military officially recognizes homosexuals as "threats to the armed forces and discharges them for indecency if [their sexual orientation is] discovered" (*GLBTQ* 2004). Homosexuality is deemed to be an illness by the military, and those who are affected by it are exempt from serving (*Turkish Daily News* 8 Sept. 2003; KAOS GL 31 Oct. 2002; *ibid.* 2002; *The Nonviolent Activist* July-August 2002). Homosexuals seeking exemption are required to provide the military with a photograph of themselves while on the receiving end of anal intercourse as proof of their sexual orientation (*ibid.*; see also KAOS GL 31 Oct. 2002; *ibid.* 2002)... KAOS GL, an advocacy group based in Turkey and aimed at combating discrimination against homosexuals (9 Sept. 2004), reported that in reality, very few conscripts apply to the military for exemption from military service on the basis of their sexual orientation because homosexuals who are exempted from military service on this basis face "repressive Islamic social pressures" (*The Nonviolent Activist* July-Aug. 2002) and problems in respect of employment opportunities and social acceptance (KAOS GL 31 Oct. 2002). [7e]

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Medical Services

5.144 As stated in the United Nations Development Programme (UNDP) Human Development Report 2001 in 1999 20 of the most essential drugs were continuously and affordably available at public or private health facilities or drug outlets within one hour's travel of home for 99% of the Turkish population. [35] (p3)

5.145 As noted in the United Nations Development Programme (UNDP) Human Development Report 2002, Turkey ranked 88 (out of 177 countries) in the world, in comparison the UK ranked 12. The Human Development Index

(HDI) is a composite index measuring average achievement in three basic dimensions of human development—a long and healthy life, knowledge and a decent standard of living. [35]

5.146 As published in the Health Statistics 2002 of the Turkish Ministry of Health there were 1,1566 hospitals, and a bed capacity of 178,135. 654 of the hospitals (bed capacity 88,827) were run by the Ministry of Health, 241 were private, 121 were social insurance institutions, and the remainder, were run by other organisations, including other Ministries and universities. There were in 2001 90,757 physicians, of whom 41,907 were specialists, and 48,850 non-specialists [46] According to the World Health Organisation there were 136.72 physicians per 100,000 population in 2002. [37a]

Cost of Treatment

5.147 The Foreign and Commonwealth Office reported in 2001 that if the patient has contributed to a social security scheme (SSK, BAG KUR, EMEKLI or SANDIGI), his or her cost of treatment will be met. A person who has not made social security contributions and who does not have his/her own financial means and can show that he/she is penniless, is provided with free treatment by the state. [4a]

5.148 On 21 February 2005 the Turkish Daily News reported that a law to transfer ownership of Social Security Authority (SSK) hospitals to the Health Ministry had came into effect over the weekend.

“The law also transfers health facilities owned by Postal and Telecommunications General Directorate (PTT) and Ziraat Bank to the ministry. SSK hospitals will from now on be run like other state-owned medical facilities. SSK members will still have to obtain referrals from their local hospital for treatment at university hospitals...Numerous political parties, nongovernmental organizations and labor groups criticized the government decision to transfer the hospitals to the Health Ministry. Those opposing to the law said the government intended to privatize the health sector, with many people only getting the treatment they could afford. The government decision is a small part of the social security reform process currently under way to ease the burden on taxpayers. Despite being owned by the SSK, hospitals are a drain to the state because of the huge losses they incur. “ [23p]

Mental Health

5.149 According to the World Health Organisation’s (WHO) Department of Mental Health and Substance Dependence Project Atlas (updated 2003) the country has disability benefits for persons with mental disorders. “After being approved by a mental health board as a chronic mental health patient, the patient can benefit from the social security services.” Mental health is part of the primary health care system. Actual treatment of severe mental health is available at the primary level. “Mental health in primary care is available in only some provinces.” Regular training of primary care professional in the field of mental health is present and the approximate number of personnel trained over the last two years totalled 3,000. [37b] (p1)

5.150 The WHO Project Atlas (updated 2003) further states that there are 1.3 psychiatric beds per 10,000 population, and one psychiatrist, one neurosurgeon, one neurologist, one psychologist and one social worker per 100,000 population. [37b] (p1-2)

5.151 The Foreign and Commonwealth Office contacted Hacettepe University Hospital Psychiatric Department in April 2002 and confirmed that antipsychotic and antidepressant medication is available in Turkey. [4b]

5.152 According to the WHO Project Atlas (updated 2003) "The following therapeutic drugs are generally available at the primary health care level: carbamazepine, ethosuximide, phenobarbital, phenytoin, sodium, sodium valproate, amitriptyline, chlorpromazine, diazepam, fluphenazine, haloperidol, lithium, biperiden, carbidopa, and levodopa." [37b]

5.153 The WHO Project Atlas (updated 2003) continues

"The mental health department was established within the Ministry of Health in 1983 with the primary tasks of improving mental health services, development and dissemination of preventive mental health services, integration of mental health with primary care, community education and protection of the community from harmful behaviours. The means of achieving these aims were through determination of standards, training programmes, data collection, research, creation of counselling and guiding units, creation of psychiatric clinics in state hospitals, assigning proper tasks to personnel, developing rehabilitation facilities, carrying out public education through the help of media, educating the public on harmful behaviour, and taking care of those who succumb to those behaviours." [37b]

HIV/AIDS

5.154 The United Nations Programme on HIV/AIDS reported in December 2003 that "At the end of 2002, Turkey had a cumulative total of 1,515 reported HIV/AIDS cases. 1.98% are among children under 15 and 33% are among women...To ensure blood safety, commercial blood donation has been fully abolished. The government ensures that all HIV infected patients receive antiretroviral treatment." [39]

5.155 In December 2001 the Foreign and Commonwealth Office contacted Hacetepe University, Ankara, which provides world-standard treatment for HIV and AIDS. The University confirmed that such drugs such as thyroxine, sequinavir, D4T, 3TC, acyclovir, zirtek, diflucon and metoclopramide, or their substitutes, are available in Turkey. [4a]

People with disabilities

5.156 The Turkish Daily News reported in December 2003 that according to a survey carried out by the Turkish Institute of Statistics and the State Planning Organisation disabled people in Turkey number nearly 8.5 million which, equates to 12.29% of the population. [23i] Another article in December 2003 stated that Turkey has a large physically handicapped population estimated to be around 500,000. Ten to 15 people are injured every day in traffic accidents alone. Turkey has 14 physical rehabilitation centres with a total bed capacity of 1,931, an increase on the 1,295 beds available in 2002. [23j]

5.157 The article further reported that “The Ministry of Health is constructing two further hospitals each with an extra 100-bed capacity. However, the Chairman of the Physically Handicapped in Turkey Association stated that the current rehabilitation centres were not providing qualified services and only some centres in Istanbul, Ankara and Kastamonu were providing satisfactory services for the physically handicapped.” [23j]

5.158 The USSD 2004 reported that “

“There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, although they did suffer from a lack of economic opportunity. The law does not mandate access to buildings and public transportation for persons with disabilities. Persons with disabilities have some privileges, such as the right to purchase products of State economic enterprises at a discount or acquire them at no cost... Companies with more than 50 employees were required to hire persons with disabilities as 2 percent of their employee pool, although the requirement was not consistently enforced. “ [5c] (Section 5)

5.159 The European Commission 2004 reported that “As regards the rights of disabled people, in July 2004 a circular was issued stating that at least 3% of the staff in public institutions with more than 50 employees should be disabled and/or ex-convicts. According to official sources, there has been a significant increase in the recruitment of disabled persons since last year. However, Turkey has still not accepted Article 15 of the European Social Charter on the rights of disabled persons.” [71c] (p46)

5.160 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, published in December 2004 noted that:

The interests of people with disabilities are addressed by the High Council of Disabilities, which brings public officials together with nongovernmental groups. The council has admirable aims and even

conducted a thorough survey of people with disabilities in 2002 in order to address problems better. Nevertheless, the needs of such people continue to exceed the limited services provided.” [62c] (p4)

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Educational System

5.161 The USSD 2004 reported that:

“Government-provided education through age 14 or the eighth grade is compulsory. Traditional family values in rural areas placed a greater emphasis on education for sons than for daughters. According to the Ministry of Education, 95.7 percent of girls and 100 percent of boys in the country attended primary school; however, a UNICEF report released during the year indicated that, in the rural areas of some provinces, over 50 percent of girls between 7 and 13 and over 60 percent of girls between 11 and 15 did not attend school.” [5c] (Section 5)

5.162 On 22 February 2005 the Guardian reported that:

“The Turkish government is paying families to "encourage" them to send their daughters to school, as part of its efforts to bring the number of girls in education into line with European standards. More than half of Turkey's young female population has no schooling, according to the United Nations children's fund, Unicef...Girls and women account for the vast majority of the 7 million people believed to be illiterate in the predominantly Muslim state. Under Turkey's education minister, Huseyin Celik, this inequity has begun to be addressed. With the help of Unicef, some 140,000 girls aged between seven and 13 have been enrolled at school over the past 18 months. The campaign, which started in 10 towns, expanded into 53 of Turkey's 81 provinces last year. “ [38a]

5.163 The Guardian further reported that for the first time last year [2004], Turkey spent more on education than defence, allocating £5.5bn to the sector. [38a]

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6. Human Rights

6a. Human Rights Issues

General

6.1 The US State Department Report (USSD) 2004, published 28 February 2005 stated that:

“The Government generally respected the human rights of its citizens; although there were significant improvements in a number of areas, serious problems remained. Security forces reportedly killed 18

persons during the year; torture, beatings, and other abuses by security forces remained widespread. Conditions in most prisons remained poor. Security forces continued to use arbitrary arrest and detention, although the number of such incidents declined. Lengthy trials remained a problem. Convictions of security officials accused of torture remained rare, and courts generally issued light sentences when they did convict. In politically sensitive cases, the judiciary continued to reflect a legal structure that favors State interests over individual rights.” [5c] (Introduction)

6.2 However, the USSD 2004 also noted that:

“The Government carried out extensive legal reforms during the year aimed at meeting the requirements for European Union (EU) membership. In September, Parliament adopted a new Penal Code and, in May, approved a package of constitutional amendments. Elements of the new Penal Code included: Sentences for torture convictions were increased; “honor killings”—the killing by immediate family members of women suspected of being unchaste—were defined as aggravated homicides; the statutes of limitations for all crimes were lengthened; and actions aimed at preventing free religious expression were defined as a crime punishable by 1 to 3 years’ in prison. Constitutional amendments included: International agreements were given precedence over national law; military and defense expenditures were placed under Audit Court review; the State was assigned responsibility for ensuring gender equality; and the military lost its authority to name members of government boards overseeing higher education and broadcasting. Legislative amendments abolished the State Security Courts (SSCs); however, they created comparable high penal courts that picked up the caseload of the former SSCs.” [5c] (Introduction)

6.3 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005:

“Turkey has undergone some remarkable changes in recent years... On the 4 December 2004 the Grand National Assembly passed a reformed Code of Criminal Procedure and nine days later a new Law on the Penal System was adopted... In order to ensure proper implementation of these laws, the government issued a string of regulations, decrees and circulars to the respective law enforcement bodies. Furthermore, several bodies were established, tasked with the supervision of the implementation work: A Reform Monitoring Group started functioning under the chairmanship of the Deputy Prime Minister responsible for Human Rights, a Human Rights Violations Investigation and Assessment Centre was established within the Gendarmerie as well as a so-called Human Rights Investigation Office within the Ministry of Interior.” [16] (p7)

6.4 The Norwegian report continued:

“Everybody I talked to during the mission agreed that the government has demonstrated a determination to improve the human rights situation... There was a broad consensus among the sources consulted that the scale of the legislative reforms was impressive and unprecedented in later Turkish history. However, legislative reform has not been concluded yet... Although there was a broad consensus that the legislative reforms pointed in the right direction, most of the people I talked to agreed that the more difficult part of the democratic reforms is still to come, namely the implementation of the reforms.” [16] (p7&9)

6.5 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005:

“Turkey’s human rights record continued to improve during 2004, albeit slowly and unevenly, as the country attempted to recover from the legacy of gross violations committed by state forces and armed opposition groups fighting in the countryside and cities in the early 1990s... Progress in extending basic freedoms has been frustratingly slow, but continues a consistent trend of improvement as over previous years. Achievements in combating torture remain fragile, with a risk of backsliding into old habits as anti-terror operations resume.” [9e] (p1)

6.6 The HRW report also noted that:

“Reform has taken one step back for every two steps forward as police, governors, prosecutors, and government institutions tend to interpret legislation as restrictively as possible. Nevertheless, there have been significant turning points: on June 9, 2004, for example, four Kurdish former deputies imprisoned for their non-violent activities since 1994 were released, and the state broadcasting channel gave its first program in the Kurdish language.” [9e] (p1)

6.7 A HRW background briefing of 15 December 2004 entitled ‘A Crossroads for Human Rights?’ stated that:

“We are also at a departure point for human rights in Turkey: just ten years ago, torture was pandemic, with deaths in custody running at approximately one a week. State forces committed extrajudicial executions and “disappearances,” or political killings through their proxies, almost daily. Progress has been halting, and occasionally disappointing, but when there has been movement, it has been consistently in the direction of improvement... In two areas, however, Turkey’s respect for human rights continues to fall well below international standards: torture and ill-treatment in police custody remain common, and there has been little progress on the return of internally-displaced Kurds to their homes... Torture remains common in Turkey today... Impunity remains a problem. Few torture cases result in prosecutions, and fewer in convictions. Sentences for torture rarely

reflect the seriousness of the crimes...The persistence of abuses in police stations appears to principally be a function of lack of supervision. “ [91] (p1-2)

6.8 As noted by Kirsty Hughes in a paper dated December 2004 entitled ‘The political dynamics of Turkish accession to the EU: a European success story or the EU most contested enlargement?’

“Overall, between 2001 and 2004 Turkey introduced two major constitutional reforms and 8 major legislative reform packages,¹¹ together with a major revision of the penal code which will come into force in April 2005. This extensive reform process has covered a wide range of areas and institutions. Major changes have been made to civil-military relations to bring them into line with international democratic standards. This includes important changes to the National Security Council, making it an advisory body with a civilian secretary-general, increased civilian control (including auditing control) over military and defence spending, and removal of military representatives from important civil bodies such as the High Education Board and the High Audio-Visual Board. The state security courts have also been abolished.” [77] (p8)

6.9 Kirsty Hughes’ paper continued:

Major changes have been made in the broad area of human rights, from the abolition of the death penalty, to a new policy of zero-tolerance of torture, improved rules for detention of suspects (to an extent which, some lawyers say, at least on paper make them among the best in Europe), removal of many but not all restrictions on freedom of expression and assembly, and improvements to minority rights, including some new freedoms for broadcasting and language course in languages other than Turkish, including Kurdish and other languages (albeit still under many restrictions). Major legislative improvements and changes have been made in women’s rights and gender equality, in particular through the extensive revision of the penal code. Other changes have been made to the judicial system, including greater compliance with decisions of the European Court of Human Rights, and a number of international conventions have been ratified in the areas of both corruption and human rights.” [77] (p8-9)

6.10 Kirsty Hughes further noted that:

“The breadth, depth and success of the reform process, and the major political challenge in managing and leading this process should not be underestimated... With such speed and breadth of reform, incomplete implementation may not be a surprise but it is a major problem. Many reforms remain incomplete for a variety of reasons. They include a mixture of deliberate obstructionism from low to high levels of the bureaucracy and the establishment – including in sections of the civil service, the judiciary, the military, police and gendarmerie – and other

problems, including the sheer time necessary to establish appropriate institutional structures, provide effective training and retraining, change organisation cultures and encourage a wider mentality change. The government established a high level Reform Monitoring Group (chaired by foreign minister Gul) to monitor and tackle implementation problems, which has had some considerable impact. But the political challenge is wider than that of reform monitoring in various ways.” [77] (p9)

6.11 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey’, published in December 2004, outlined that the current Turkish government of Recep Tayyip Erdogan had pursued a vigorous reform agenda in preparation for the December 2004 meeting of European Union (EU) leaders. The report further stated that Turkey had passed a string of constitutional amendments and reform packages in recent years, and that the government had taken serious steps toward ensuring their implementation. [62c] (p1)

6.12 However, the Freedom House report continued:

“Despite the amendments, Turkey’s constitution lacks the inclusiveness, the clearly defined rights, and the limitation on state power that are crucial for democracy in a multicultural society. The reforms thus far have been largely imposed from the outside, with little grassroots effort from Turkey itself. Turks have great faith in the state’s ability to serve their best interests, and a culture of freedom and democracy has yet to be fully instilled throughout the population. Education reform is required to improve opportunities for the poor and develop the popular basis for the full consolidation of reforms. With time, Turkey will ultimately need to draft an up-to-date civil constitution as well.” [62c] (p2)

6.13 As noted in the European Commission Regular report on Turkey’s progress towards Accession 2004, published 6 October 2004

“Since 1999 Turkey [has] adopted two constitutional reforms and eight legislative reform packages. The most recent May 2004 constitutional reform addresses a number of issues related to human rights. These include: eradicating all remaining death penalty provisions; strengthening gender equality; broadening freedom of the press; aligning the judiciary with European standards; and establishing the supremacy of international agreements in the area of fundamental freedoms over internal legislation.” [71c] (p29)

6.14 The European Commission’s report 2004 continued

“In September 2004 Turkey adopted a new Penal Code, which will have positive effects on a number of areas related to human rights, particularly women’s rights, discrimination and torture. Furthermore, a new Press Law was adopted in June 2004 and in July 2004 a new Law on Associations and a Law on Compensation of Losses Resulting from Terrorist Acts were adopted. A number of regulations and circulars

have also been issued by the authorities in order to enable the implementation of legislation.” [71c] (p29)

6.15 The European Commission 2004 stated that

“Turkey has made further progress with regard to international conventions on human rights since the last Regular Report [2003]. Protocol No. 13 to the ECHR, concerning the abolition of the death penalty in all circumstances, was signed in January 2004. The First Optional Protocol to the International Covenant on Civil and Political Rights, providing for recourse procedures that extend the right of petition to individuals, was signed in February 2004. In April 2004 Turkey signed the Second Optional Protocol on the abolition of the death penalty.” [71c] (p29-30)

6.16 However, the European Commission report 2004 continued “Turkey has not signed the Framework Convention for the Protection of National Minorities or the Revised European Social Charter. The Constitution now enables Turkey to accede to the Statute of the International Criminal Court, but it has not yet done so.” [71c] (p30)

6.17 The Amnesty International report ‘From Paper to Practice: making change real’ published 12 February 2004 reported that

“The past two and a half years, and particularly 2003, has witnessed an unprecedented period of legislative reform in Turkey. Constitutional amendments followed by legislative reform packages (known as the ‘Harmonization Laws’) have been passed in order to bring Turkish law into line with international standards, with the aim of satisfying the terms of the Copenhagen Political Criteria which provide the benchmark for countries aiming at accession to the European Union (EU).” [12d] (p1)

6.18 In the above report Amnesty International stated that “The reforms to date have been encouraging, but genuine change will only come with their full and sustained implementation.” [12d] (p1)

6.19 The International Helsinki Federation (IHF) report ‘Human Rights in the OSCE Region’, published June 2004 reported that “Various positive developments took place in Turkey in the field of human rights in 2003. Four legislative ‘adjustment packages’ were adopted, including many legal amendments, which mainly focused on meeting European Union (EU) accession standards... Though the ‘adjustment packages’ provided for important legal changes, their implementation through other legislation was problematic.” [10] (p1)

6.20 Amnesty International’s annual report on Turkey covering the events of 2003, published May 2004 stated that:

“Implementation of the reforms was uneven and it was too early to gauge significant progress on human rights as a result of the legislation. Reports of torture and ill-treatment in police detention and disproportionate use of force against demonstrators continued to be matters of grave concern, although the use of some torture methods appeared to diminish. Those who attempted to exercise their right to demonstrate peacefully or express dissent on some issues continued to face criminal prosecution.” [121] (p1)

6.21 As noted by the European Commission 2004

“The government undertook major steps to achieve better implementation of the reforms. The Reform Monitoring Group, a body set up under the chairmanship of the deputy Prime Minister responsible for Human Rights, was established to supervise the reforms across the board and to solve practical problems. Significant progress took place also on the ground; however, the implementation of reforms remains uneven.” [71c] (p53)

6.22 As reported by the Turkish Daily News on 22 June 2004, the Council of Europe Parliamentary Assembly endorsed a proposal to end their monitoring of Turkey in the wake of recent reforms. [23n]

6.23 A Council of Europe news release dated 22 June 2004 stated that

“The Parliamentary Assembly today decided to end the monitoring of Turkey, declaring that the country had ‘achieved more reform in a little over two years than in the previous decade’ and had clearly demonstrated its commitment and ability to fulfil its statutory obligations as a member state of the Council of Europe. However, the Assembly resolved to continue ‘post-monitoring dialogue’ with the authorities on a twelve-point list of outstanding issues.” [29]

6.24 The Council of Europe news release continued

“In a resolution adopted by 141 votes to 8, the parliamentarians welcomed the adoption of important changes to the Constitution in October 2001 and May 2004, as well as abolition of the death penalty, ‘zero tolerance’ towards torture and impunity, the lifting of many restrictions on freedom of expression, association and religion, the abolition of the state security courts, and the granting of certain cultural rights to Turkish citizens of Kurdish origin.” [29]

6.25 As noted in the Report of the Independent Commission on Turkey ‘Turkey in Europe: More than a promise?’ published in September 2004:

“It can be fairly said that Turkey has achieved more reform in just over two years than in the whole of the previous decade. The political and legal system of the country has changed profoundly. In recognition of this, and of the broad progress made in democracy, human rights and the rule of law, the Parliamentary Assembly of the Council of Europe

decided at its recent spring session to end the monitoring procedure applied to Turkey since 1996. Beyond these achievements, however, determined efforts are necessary in order to ensure the effective implementation of the new legislation in all state structures and all parts of the country. “ [75]

6.26 According to the Human Rights Watch report ‘Turkey: EU bid hinges on further rights reforms’ published 15 June 2004 “The past two years have brought substantial progress, including the abolition of the death penalty, a marked reduction in the extent and severity of torture and better protection for freedom of expression.” (9c p1)

6.27 The Human Rights Watch researcher for Turkey Jonathan Sugden commented in the above report that “The Government and the judiciary deserve real credit for these achievements.... If Turkey can maintain this momentum and take further bold action, June 2004 may well turn out to be the critical turning point for human rights in Turkey.” [9b] (p1)

6.28 A joint press statement by Amnesty International, Human Rights Watch, the International Federation for Human Rights (FIDH), the Human Rights Association (IHD), the Human Rights Foundation of Turkey (TIHV) and Mazlum Der published 10 June 2004 stated that

“A joint delegation from Amnesty International, Human Rights Watch and the International Federation for Human Rights (FIDH), joined local partners the Human Rights Foundation of Turkey, the Human Rights Association and Mazlum Der to meet Turkish government representatives in Ankara this week.... Between 8 and 10 June [2004] the six organizations met senior government ministers and officials and others centrally involved in the ongoing reform process in Turkey. The non-governmental organizations (NGOs) welcome many of the legal reforms, which have been introduced in the recent past. However, concerns continue about shortcomings in current legislation and the implementation of the reforms. The NGOs urged the Turkish authorities to take urgent practical measures to ensure the full protection of human rights.” [12k] (p1)

6.29 The press statement continued

“The serious and constructive dialogue that took place showed that the Turkish authorities are increasingly open to consultation with human rights organizations. During the meetings the NGOs urged the government to end judicial harassment of human rights defenders, to promote public awareness of the UN Declaration on Human Rights Defenders, and to consult civil society more systematically over future reforms. This meeting took place in a strikingly positive atmosphere. The six human rights organizations will continue to closely monitor further developments.” [12k] (p1)

6.30 The Amnesty International report 'Judicial Harassment of human rights defenders Turkey – 'repeal one law, use another' published on 1 November 2004 reported that

"Human rights defenders in Turkey continue to be targeted for harassment and intimidation by state officials. Trials and investigations are frequently opened against human rights defenders. While such trials usually end in acquittal or a sentence which is suspended or commuted to a fine, Amnesty International considers them to be a form of state harassment designed to intimidate human rights defenders and restrict their activities...Despite recent legal and constitutional reforms, the law contains many possible pretexts with which to restrict or punish the work of human rights defenders in Turkey. As some laws have been changed, new regulations are found with which to obstruct their activities - a case of 'change one law, use another'. Prosecutions are arbitrary and vary throughout the country - activities which may go allowed in one province will be restricted, investigated or prosecuted in another. "[12m] (p1)

6.31 The USSD 2004 reported that:

"There were no known political killings [in 2004]; however, there were credible reports that security forces committed a number of unlawful killings.... The Human Rights Foundation (HRF) estimated that there were 43 killings by security forces in 2003...According to the Government, seven persons died while in police or Jandarma custody during the year: Four deaths were recorded as suicides, two as heart attacks, and one was under investigation at year's end to determine the cause of death." [5c] (Section 1a)

6.32 The Freedom House report 'Freedom in the World 2004' published 24 August 2004 described Turkey as 'partly free'. Using the following scale of 1 (being the most free) to 7 (being the least free), Freedom House assessed Turkey's political rights as 3 and civil liberties as 4. [62b] This is the same as 2003. [62a]

Torture

6.33 The USSD 2004 reported that:

"The Constitution prohibits such practices [as torture]; however, members of the security forces continued to torture, beat, and otherwise abuse persons regularly, particularly in the southeast. Security forces most commonly tortured leftists and Kurdish rights activists. According to the HRF, there were 918 credible cases of torture and mistreatment reported at its 5 national treatment centers during the year [2004]. Human rights advocates claimed that hundreds of detainees were tortured during the year in the southeast, where the problem was particularly serious, but that only a small percentage of detainees reported torture and ill-treatment because they feared retaliation or believed that complaining was futile. During the year

[2004], senior HRF and HRA officials stated that there had not been a significant change in the frequency of torture over previous years. However, officials at a number of HRA branch offices, including in the southeast, said they had observed a decline in the practice. A number of attorneys in the southeast and other regions also reported that torture and ill-treatment had become significantly less common. Observers reported that police demonstrated greater restraint in their treatment of detainees and protestors during the year due to legal reforms and government directives.” [5c] (Section 1c)

6.34 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005:

“Most of the people I talked to agreed that there has been a reduction in the extent and severity of torture in Turkey. Diplomatic sources claimed that the government deserved much of the credit for these achievements. Its repeatedly declared intention to pursue a „zero-tolerance policy“ against torture was followed up by a number of important legislative amendments. Several sources attributed special importance to the fact that sentences for torture and ill-treatment can no longer be suspended or converted into fines. Equal importance was attached to the abolishment of the requirement to obtain permission from superiors to open investigations against policemen (and other public officials). According to diplomatic sources in Ankara, most of the legislative framework required, to combat torture and ill-treatment is now on [sic] place. This had paved the way for and contributed to a marked improvement in Turkey’s [sic] human rights record in general and especially when it comes to torture and ill-treatment.” [16] (p11)

6.35 However, the Norwegian report continued:

“While the overall picture induces optimism, serious problems remain in the daily praxis. Both when it comes to the uneven level of implementation of the anti-torture measures as well as to the use of torture as such...According to diplomatic sources in Ankara, torture is more likely to happen where the Gendarmerie (*Jandarma*) is in charge of police duties (outside the cities). In most of the urban areas (i.e. the police’s area of responsibility), however the internal monitoring system implemented by the Ministry of Interior (including impromptu visits at police stations and detention facilities), seems to work better, apparently leading to a reduction in the number of torture cases at police-stations. The monitoring of detention-facilities, however, may also have led to an *increasing* number of people complaining about ill-treatment or torture *outside* police-stations. Several sources mentioned cases where suspects were picked up for questioning by plain-clothed police officers, driving around in unmarked police cars and questioning people at deserted places. According to the Human Rights Foundation in Ankara the danger of being tortured appears to be much higher in

such cases of “unofficial detention” than in regular police-custody.” [16] (p11-12)

6.36 The Norwegian report further stated that:

“The overall trend, however, was described as positive in terms of *physical* torture and ill-treatment. Most sources consulted agreed that there were fewer cases, in which “traditional” methods such as electric shocks or *falaka* were used. On the other hand, the NGOs I talked to claimed that there was a continuous use of less detectable methods of torture and ill-treatment. They specifically referred to the use of *psychological* torture (detainees stripped naked and/or sexually harassed, being subjected to mock executions or other threats as well as being prevented from sleeping, eating or going to the toilet). Mr. Kutlu [HRFT Ankara] and Mr. Demirtas [Head of IHD Diyarbakir] both made the assumption that these methods are being used because they are less likely to be discovered during the prescribed medical examination of the detainee.” [16] (p13) (See also Section 6A on Medical examination in detention)

6.37 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005:

“There were fewer cases of torture and ill-treatment in 2004, largely due to safeguards imposed in recent years, and by the government’s frequent assertions of zero-tolerance for such abuses. Nevertheless, detainees from all parts of the country report that police and gendarmes beat them in police custody. In some cases, detainees still complain that they have been subjected to electric shocks, sexual assault, hosing with cold water, and death threats. The persistence of these violations is a consequence of poor supervision of police stations, which permits security forces to ignore detainees’ rights – and most importantly, the right to legal counsel.” [9e] (p2)

6.38 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, published in December 2004 noted that:

“Torture and ill-treatment by officials continue to be an issue in Turkey. The Erdogan government has declared a zero-tolerance policy toward torture, and it appears to be backing up its position with new detention laws and, as of April 2004, a policy forbidding police from entering the room when doctors examine alleged torture victims. Recent legal amendments have limited the initial custody period after arrest to 24 hours, a measure widely believed to reduce opportunities for torture... The cumulative result of these policies has been a marked decline in torture cases in the past couple of years. Turkey now needs to implement safeguards and legal amendments to ensure prosecution in accordance with the law... The trend is positive, but more still needs to be done.” [62c] (p6)

6.39 The European Commission 2004 reported that

“With regard to the prevention of torture and ill-treatment, most of the legislative and administrative framework required to combat torture and ill-treatment has been put in place since 2002, when the government declared its intention to pursue a zero-tolerance policy against torture. In accordance with various legislative amendments, pre-trial detention procedures have been aligned with European standards; sentences for torture and ill-treatment can no longer be suspended or converted into fines; and the requirement to obtain permission from superiors to open investigations against public officials has been lifted.” [71c] (p33)

6.40 The European Commission’s 2004 report also stated that

“The Government’s policy of zero tolerance and its serious efforts to implement the legislative reforms have led to a decline in instances of torture. In the first six months of 2004 the Turkish Human Rights Association received 692 complaints related to torture, a 29% decrease on the first six months of 2003. However, the number of complaints of torture outside of formal detention centres has increased considerably as compared with 2003.” [71c] (p34)

6.41 The European Commission 2004 continued “Although many of the recommendations of the Council of Europe’s Committee for the Prevention of Torture and Ill-treatment (CPT) and the relevant UN bodies have been acted upon, a number have still not been followed up by the Turkish authorities. Turkey still needs to pursue vigorously its efforts to combat torture and other forms of ill-treatment by law enforcement officials.” [71c] (p33)

6.42 The European Commission 2004 reported that “Although torture is no longer systematic, numerous cases of ill-treatment including torture still continue to occur and further efforts will be required to eradicate such practice.” [71c] (p17)

6.43 According to the Turkish Constitution the use of torture is prohibited, Article 17 states that ‘no-one shall be subjected to torture or ill-treatment; no-one shall be subjected to penalty or treatment incompatible with human dignity’. [15]

6.44 According to a Human Rights Watch (HRW) briefing paper ‘Eradicating Torture in Turkey’s Police stations: Analysis and Recommendations’ published 22 September 2004

“Turkey has made significant progress in reducing torture and other ill-treatment by the security services through successive legislative reforms since 1997. There are continuing problems implementing these laws, however, as the Turkish government itself concedes....Torture remains common in Turkey today. In the twenty years following the 1980 military coup, successive governments maintained a system of detention and interrogation that encouraged torture and protected the

perpetrators. As a result, more than four hundred Turkish citizens died in custody apparently as a result of torture, with 45 deaths in 1994 alone. In the past five years, changes to laws and procedures have significantly reduced the frequency and severity of torture to the extent that it is now realistic to hope that such deaths in custody may be a thing of the past.” [9d] (p2)

6.45 The HRW briefing paper 22 September 2004 reported that

“The most important changes were improvements to medical checks, shortening of pre-trial detention periods and, in 2003, recognition of the right of immediate access to legal counsel for all detainees. It is well-established that access to legal counsel is the single most effective safeguard against abuse in custody. This last step significantly raised the standard of formal procedural and legal protections against torture in Turkey. Its formal protections are now among the strongest in Europe.” [9d] (p2)

6.46 The HRW briefing paper 22 September 2004 continued

“Torture and other ill-treatment persist in Turkey because in some detention facilities police and gendarmes (soldiers who police rural areas) ignore the new safeguards. Certain police units deny or delay detainees access to a lawyer, fail to inform families that their relatives have been detained, and attempt to suppress or influence medical reports which record ill-treatment. The special protections for child detainees are still not reliably applied by the police.” [9d] (p3)

6.47 According to the Human Rights Watch report, published 15 June 2004 “Turkish legal protections for detainees are better than in many EU member states, yet last year 340 victims applied to the Turkish Human Rights Foundation for medical attention for torture or ill-treatment inflicted during 2003, indicating that police and gendarmerie are failing to implement the safeguards reliably.” [9b] (p2)

6.48 Amnesty International’s report of 12 February 2004 noted that:

“Torture and ill-treatment by police of persons who have been detained remain a matter of grave concern. Although it was significant that there were far fewer reports to Amnesty International during 2003 of methods such as electric shocks, falaka, and hanging by the arms, there were regular reports of detainees being beaten, stripped naked, sexually harassed, subjected to repeated verbal intimidation, including death threats, sometimes accompanied by mock executions, and being subjected to restriction of sleep, food, drink and use of the toilet.” [12d] (p3)

6.49 The AI report continued

“Amnesty International considers that one reason for the persistence of torture and ill-treatment in police and gendarmerie stations is linked to the failure of law enforcement officials to follow the legally prescribed detention procedures, and in the correct sequence. These include the duty to immediately inform detainees of their rights, including the right to remain silent, right to immediate access to legal counsel and right to have next of kin or other person of their choice informed of their detention.” [12d] (p3-4)

6.50 According to figures compiled by the Human Rights Association of Turkey (HRA) between January and June 2004, 202 individuals reported experiencing torture or ill treatment in police custody and 208 individuals reported experiencing ill treatment outside of official detention facilities. [73g] (p2) The figures for all of 2003 were 818 and 241 respectively. [73f] (p2)

6.51 The report on the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 7 –15 September 2003 published 18 June 2004 found that “The facts found in the regions of Turkey visited by the CPT’s delegation are globally encouraging. The Government’s message of ‘zero tolerance’ of torture and ill-treatment has clearly been received, and efforts to comply with that message were evident.” [13b] (p10)

6.52 The CPT report continued “The information gathered in Adana, Diyarbakir and Mersin indicates that resort to methods such as suspension by the arms, the application of electric shocks, squeezing of the testicles or stripping persons naked and hosing them with cold water, is now an infrequent occurrence in these parts of the country at least.” [13b] (p10)

6.53 The CPT report continued

“Above all, numerous detained persons interviewed by the delegation emphasised the vivid contrast between, on the one hand, the manner in which they were treated whilst in police/gendarmerie custody in the course of 2003 and, on the other hand, the very harsh methods applied to them during periods of custody in previous years. One detainee interviewed stated that ‘the gendarmes actually started talking to me about my rights.’” [13b] (p10)

6.54 However, the CPT reported that

“In each of the regions visited, some allegations were received of beatings during recent periods of police/gendarmerie custody; the establishments concerned by these allegations included the Anti-Terror Department at Adana Police Head Quarters, the Law and Order Departments at Diyarbakir and Mersin Police Headquarters, and the Baglar and Carsi police stations in Diyarbakir.” [13b] (p10)

6.55 The European Commission 2004 reported that

“Following allegations of ‘systematic’ torture in Turkey the Commission undertook a fact finding mission in September 2004 in order to carry out a further check on the situation vis-à-vis torture and ill-treatment in Turkey. This mission enabled the Commission to confirm that the Government is seriously pursuing its policy of zero tolerance in the fight against torture; however, numerous cases of ill-treatment including torture still continue to occur and further efforts will be required to eradicate such practices.” [71c] (p35)

Medical examinations in detention

6.56 The Committee for the Prevention of Torture (CPT) found in its visit to Turkey that

“It is clear from the information gathered during the September 2003 visit that, despite some modest progress, the system continues to display major deficiencies. However, the CPT has noted with interest that, in the light of the delegation’s observations at the end of the visit, a new circular on ‘points to be borne in mind in providing forensic medical services and drawing up forensic reports’ was issued by the Ministry of Health on 10 October 2003, addressed to the 81 Provincial Governors’ Offices.” [13b] (p17)

6.57 The European Commission 2004 reported that “Notwithstanding the January 2004 Regulation, there are still reports of detainees being seen by a doctor in the presence of enforcement officials without the prior request of the doctor. Moreover, the requirement to transmit the medical report to the authorities concerned, without providing copies to law enforcement officials, is also not always met.” [71c] (p35)

6.58 The USSD 2004 reported that

“State-employed doctors administered all medical exams for detainees. Medical examinations occurred once during detention and a second time before either arraignment or release; however the examinations generally were brief and informal. According to the Society of Forensic Medicine Specialists, only approximately 300 of the 80,000 doctors in the country were forensic specialists, and most detainees were examined by general practitioners and specialists not qualified to detect signs of torture. There were forensic medical centres in 27 of 81 provinces. Some former detainees asserted that doctors did not conduct proper examinations and that authorities denied their requests for a second examination” [5c] (Section 1c)

6.59 In its visits to Turkey the CPT found that a majority of the detained persons interviewed in the course of the September 2003 visit alleged that law enforcement officials had been present during the examination. However, “A somewhat different picture emerged from the delegation’s discussions with health care staff in Adana, Diyarbakir and Mersin. They indicated that on the whole it was now possible to ensure the absence of law enforcement officials. However, there were exceptions; for example, staff at Diyarbakir State Hospital stated that, whereas the police had in recent times been displaying a

more cooperative attitude, it was still impossible to persuade members of the gendarmerie to leave the examination room.” [13b] (p12)

6.60 On the 29 March 2004 an Amnesty International medical action note reported that

“Dr Ilker Mese, a doctor in charge of a hospital emergency service in Tekirdag, a coastal city to the west of Istanbul, is being investigated for refusing to examine a prisoner in the presence of security officials. Within days of the incident, Dr Mese was relocated to another clinic as a disciplinary measure and an investigation was instigated against him for non-compliance with a new protocol, which Dr Mese had no knowledge of, and for ‘insulting’ the attending security forces.” [12g] (p1)

6.61 The Amnesty International medical action note continued

“According to the authorities the new protocol was signed by the Ministry of Justice, the Ministry of the Interior and the Ministry of Health in October 2003. It allows for the presence of security officials during examinations where the examination room is not secure or if the prisoner is being investigated for or has been convicted of ‘terrorist’ acts. The protocol stipulates that when a security official is present, they should ‘take protective measures at a distance where they cannot hear conversations between the doctor and the patient’.” [12g] (p1)

6.62 The medical action note further states that “According to reports, the new protocol was not circulated to health institutions in Tekirdag until 15 January 2004. The protocol apparently conflicts with new regulations introduced in February 2003 and welcomed by AI which stipulate that security officials should not be present during the medical examination of individuals held in police detention unless the physician requests.” [12g] (p1-2)

6.63 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005:

“Another lawyer, Mr. Süleyman Islambay from Konya, showed me an example of such a medical examination report (*adli muayenesi* or *adli tip rapor*), which usually confirms that the persons examined do not have any visible signs of ill-treatment. Mr. Islambay told me that these examinations were quite superficial and usually conducted with law enforcement officials present. As far as he could observe (he has clients from the province of Konya), medical examinations are usually carried out during detention and either before arraignment or release – as required by the law. According to Mr. Kutlu medical investigations are only carried out by state-employed doctors, very few of them being forensic specialists and thus qualified to detect signs of torture. This statement was corroborated by Mr. Turan, who added that every medical examination was to be paid for by the detainee himself (6 million TL/about 3,5 Euro per case)... While the provisions relating to

the medical examination are observed “to a certain extent” (Süleyman Islambay) in most police-stations, they are ignored in others.” [16] (p13&20)

Prosecution of state officials accused of ill-treatment

6.64 As noted in the USSD 2004:

“During the year, prosecutors opened trials against 2,395 security personnel on torture or ill-treatment charges. Through September, courts reached final verdicts in 625 torture and ill-treatment cases begun in previous years, convicting 345 defendants and acquitting 1,094. Seven security officers received short suspensions from duty during the year for ill-treatment. Courts investigated many allegations of ill-treatment and torture by security forces; however, they rarely convicted or punished offenders. When courts did convict offenders, punishment generally was minimal; monetary fines did not keep pace with the rate of inflation, and sentences were sometimes suspended. The rarity of convictions and generally light sentences in torture cases contradicted the Government's official policy of zero tolerance for torture. Authorities typically also allowed officers accused of abuse to remain on duty and, in some cases, promoted them during their trial, which often took years. Administrative and bureaucratic barriers impeded prosecutions and contributed to the low number of torture convictions. Under the law, courts could not convict unless a defendant attended at least one trial session. Police defendants sometimes failed to attend hearings in order to avoid conviction; prosecuting attorneys claimed courts failed to make serious attempts to locate such defendants, even in cases where the defendants received salary or pension checks at their home address. “[5c] (Section 1d)

6.65 The International Federation for Human Rights report ‘Turkey: Torture, still a routine practice’ published May 2003 states that “Turkey fails to carry out adequate and effective investigations into the alleged violations of the right to live and the right to be free of torture.” [70a] (p3)

6.66 According to a HRW briefing paper 22 September 2004

“Compared with the mid-1990s, it is far easier today for victims of torture to bring complaints against alleged perpetrators. However, even when evidence is very strong, convictions of offenders and appropriate sentences are rare. Plaintiffs are often intimidated. Prosecutions of persons accused of torture usually last several years, and sometimes more than a decade. In recent years, a number of serious cases involving torture have exceeded the maximum time period allowed for prosecutions (eight years in one recent case) and as a result the charges were dropped.” [9d] (p5)

6.67 According to information obtained from Turkish Prime Ministers website (accessed August 2003) the fourth reform package stipulates that punishment handed down for convictions of torture and abuse cannot be converted into

finances and neither can they be postponed. Measures were introduced that make it more difficult for those convicted of inflicting torture to avoid prison sentences. [36a] (p2) Further legislation passed in August 2003 made it clear that investigations into crimes of torture and maltreatment will be considered urgent cases. [36d] (p3) (See paras 4.24 - 4.29 and 4.32 – 4.39 for more details on the European Union reform packages)

6.68 The European Commission 2004 reported that

“As regards the fight against impunity, according to official statistics, of 2,454 law enforcement agents who were tried in 2003 in relation to allegations of torture or ill-treatment, 1,357 were acquitted and of the 854 defendants that were convicted, 138 were imprisoned. In February 2004, the Minister of the Interior issued a circular aimed at ensuring the attendance of the accused at trials concerning torture or ill treatment.” [71c] (p34)

6.69 The EC report 2004 continued “In some cases, defendants had been able to avoid attending trial for many years, thus causing their cases to exceed the statute of limitation. Concerns remain that despite reforms prosecutors are not always promptly and adequately conducting investigations against public officials accused of torture.” [71c] (p34)

6.70 In its report ‘From Paper to Practice: making change real’ published 12 February 2004

“Amnesty International notes one recent decision to expel a senior police official from the police force on the grounds that he had wilfully ignored the crimes of torture and ill-treatment committed by officers in units under his command. The dismissal from the police force in September 2003 of Adil Serdar Saçan, former Head of the Organized Crime Branch of Istanbul Police Headquarters, represents one of the few instances of a senior official being disciplined in this way in connection with the crimes of torture and ill-treatment.” [12d] (p5)

6.71 However, the report continued that “At the present time, however, the ratio of reports of torture and ill-treatment to investigation and prosecution of alleged perpetrators remains extremely low. While this state of affairs continues, it is unlikely that law enforcement officials will really internalize the sense that brutality against detainees is unacceptable.” [12d] (p5)

6.72 In their official response to the CPT report on its visit of September 2003 (published 18 June 2004) the Turkish Government stated that 8,060 security personnel have been subjected to judicial proceedings under Article 245 of the Turkish criminal code (ill-treatment) for offences committed between 1 January 1995 and 31 March 2004. Of these 1,766 have had the charges dropped, in 1,964 cases the decision was taken not to prosecute, 1,026 cases were still awaiting trial, 1,724 personnel were acquitted, 364 were convicted and 1,207 cases were postponed under law No 4616. [13c] (p19)

6.73 The Turkish Government's response reported that the figures for security personnel subjected to judicial proceedings under Article 243 of the Turkish criminal code (torture) for offences committed between 1 January 1995 and 31 March 2004 were as follows. In total 1,366 personnel were investigated, of which 72 had the charges dropped. In 476 cases the decision was taken not to prosecute, 242 were still awaiting trial, 475 were acquitted, 84 were convicted and 17 cases were postponed under law No 4616. [13c] (p19)

6.74 The Turkish Governments response also reported that in addition administrative proceedings were taken against 6,341 personnel for abuses under Article 245 of the Turkish criminal code (ill-treatment). Of these cases 6,025 resulted in no action being taken, 11 resulted in warnings being issued, 14 in reprimands, in 39 cases there were deductions from personnel's salary, 183 security personnel received short term suspensions and 69 long term suspensions. [13c] (p20)

6.75 The response reported that administrative proceedings were also taken against 950 personnel for abuses under Article 243 of the Turkish criminal code (torture). Of these cases 935 resulted in which no action being taken, 2 resulted in reprimands, in 1 case there was a deduction from salary, 1 short-term suspension, 8 long-term suspensions and 3 dismissals from the force. [13c] (p20)

6.76 In its report 'Turkey: Insufficient and inadequate –judicial remedies against tortures and killers' published 16 November 2004

"Amnesty International is concerned by recent developments in the trials of police officers charged in connection with the torture, and subsequent death in custody, of trade unionist Suleyman Yeter. While the Turkish government has declared a policy of "zero tolerance for torture", Turkish courts appear unable or unwilling to bring appropriate sanctions against torturers. These latest decisions -- which centre on a pattern of torture and ill-treatment at the Anti-Terror Branch of Istanbul Police Headquarters in the late 1990s -- show the ways that police officers, who have carried out torture, can enjoy impunity despite recent legal reforms. On 10 November the Turkish Court of Appeals upheld the conviction of police officer Mehmet Yutar for his involvement in the death of trade unionist Suleyman Yeter who died in detention at the Anti-Terror Branch of Istanbul Police Headquarters after being tortured in March 1999...Meanwhile, cases against nine police officers from the same Anti-Terror Branch of the Istanbul Police Headquarters who were charged with torturing Suleyman Yeter and 14 others in another incident in 1997 were dropped on 11 November, because they had reached the time limit for such proceedings, known as the "statute of limitations"... In another trial that has concluded recently, Istanbul Heavy Penal Court No 7 acquitted three police officers on 30 September 2004 on charges of torturing three individuals detained at the Anti-Terror Branch of Istanbul Police Headquarters on 11 November 1998. The court decided to acquit on the basis that there was "insufficient evidence" despite the existence of expert, independent, medical forensic reports that confirmed the detainees'

allegations that they had been subjected to torture techniques while in detention including being beaten, suspended from the arms, and given electric shocks. “ [12n] (p1)

6.77 The AI report continued:

“The present government has introduced reforms and measures against the overwhelming impunity that torturers have enjoyed. However, it is clear that much still needs to be done; these legal proceedings illustrate the ways that torturers can still go unpunished thanks to ineffective judicial mechanisms and bodies which resist reform. Failures to adequately investigate complaints, lengthy extensions of trials and their subsequent collapse through reaching the statute of limitations, insufficient and reduced sentences are all ways in which impunity in Turkey continues. “ [12n] (p2)

6.78 The AI report further stated that:

“Amnesty International notes that the new Penal Code passed by the Parliament on 26 September 2004 redefines the crime of torture in terms that are closer to those found in international law, lays down heavier penalties to individuals convicted of torture and further extends the statute of limitations in such crimes. However, in the light of the above cases, Amnesty International is concerned that torture trials can still be dropped because of the statute of limitations and draws attention to the fact that the status of torture as a peremptory norm of general international law suggests that there should be no statute of limitations for the crime of torture.” [12n] (p2)

6.79 As noted in a HRW background briefing of 15 December 2004 entitled ‘A Crossroad for Human Rights?’ “Impunity remains a problem. Few torture cases result in prosecutions, and fewer in convictions. Sentences for torture rarely reflect the seriousness of the crimes.” [9f] (p2)

6.80 As outlined by the Council of Europe European Commission against Racism and Intolerance in its ‘Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005’:

“Some steps have been taken to tackle the problem of violence and ill-treatment on the part of the police. They include a reduction in the length of time spent in custody and some improvement in conditions of detention. Ministerial circulars have been issued, reminding law enforcement agencies that ill-treatment and the use of torture are strictly forbidden. This prohibition is regularly reiterated in public by the authorities. Allegations of ill-treatment and torture fall into the category of matters that call for urgent and priority legal proceedings... ECRI notes that there are several bodies which, alongside prosecutors, can receive complaints of human rights violations, including in cases where the alleged perpetrators are law enforcement officials. These bodies, however, are not independent and have insufficient powers of investigation and sanction. The Turkish authorities have informed ECRI

that they have improved training for law enforcement officials in human rights and the case-law of the European Court of Human Rights. ECRI welcomes progress made by Turkey in recent years in combating torture and impunity. It expresses concern however at continuing allegations of ill-treatment and in some cases torture, particularly during custody. “ [76] (p27)

6.81 On 22 February 2005 the BBC reported that:

“The trial has started in Turkey of four policemen accused of the unlawful killing of a man and his child in the south-eastern province of Mardin...That the trial is happening - and that it is attracting attention inside the country - testifies to the changes Turkey has seen over recent years...Those involved were, for a time, suspended from duty. They have since been re-instated and re-assigned...There is still a fair amount of paramilitary activity in the south-east and human rights groups maintain that the authorities are still heavy-handed in their response. The difference between now and a few years ago is that, in some cases at least, such responses no longer go unnoticed in the rest of Turkey. In this case, moreover, the authorities have been quick to act against those who appear to have overstepped the mark. “ [66ao]

Enforcement of Human Rights

6.82 See section 6C on Treatment of non-governmental organisations (NGOs)

Disappearances

6.83 The USSD 2004 reported that:

“There were no reports of politically motivated disappearances [in 2004]. The Government continued to investigate and explain some reported disappearances. The Ministry of Interior operated the Bureau for the Investigation of Missing Persons, which was open 24 hours a day. According to the Government, 14 persons were reported missing during the year due to suspected terrorist activities and 4 missing persons were located alive. There were no new developments in the 2002 disappearance of Coskun Dogan. In March, a Diyarbakir SSC determined that there was insufficient evidence to prosecute 47 soldiers for their alleged involvement in the 2001 disappearance of Serdar Tanis and Ebubekir Deniz.” [5c] (Section 1b)

6.84 The International Federation for Human Rights report ‘ Turkey Human Rights in the Kurdish Southeast: Alarming situation despite extensive legal reforms’ reported in July 2003 that “Many cases of disappearances in Turkey are not resolved. The majority of these cases reportedly occurred in south-east Turkey, in areas where the State of Emergency was in force.” [70b] (p9) The IFHR also reported that on the 17 May 2002, the ‘Saturday Mothers’ (a group campaign for those that have disappeared) gathered in Istanbul for the first time in two years, in the presence of the press and international observers. [70b] (p10)

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Freedom of Speech and the Media

6.85 Europa Regional Surveys of the World 'The Middle East and North Africa 2005 records that among the most serious and influential Turkish newspapers are the dailies 'Cumhuriyet' and 'Milliyet'. "The most popular dailies are the Istanbul 'Sabah', 'Hürriyet', 'Milliyet' and 'Zaman'; 'Yeni Asir' published in Izmir, is the best-selling quality daily of the Aegean region. There are numerous provincial newspapers with limited circulation." [1d] (p1196)

6.86 The Netherlands Ministry of Foreign Affairs Official General report on Turkey published in January 2002 reported that "It is known that local newspapers sometimes print articles which have been 'ordered' in return for payment. These are sometimes submitted in connection with asylum applications." [2a] (p76)

Freedom of speech/expression

6.87 The USSD 2004 stated that:

"The Constitution provides for freedom of speech and of the press; however, the Government continued to limit these freedoms in some cases. The Government, particularly the police and judiciary, limited freedom of expression through the use of constitutional restrictions and numerous laws, including articles of the Penal Code prohibiting insults to the Government, the State, or the institutions and symbols of the Republic. Other laws, such as those governing the press and elections, also restrict speech. In September [2004], Parliament adopted legislation prohibiting imams, priests, rabbis, and other religious leaders from "reproaching or vilifying" the Government or the laws of the State while performing their duties (see Section 2.c.). The "reasoning" attached to the Penal Code states that persons could be found in violation for accepting payment from foreign sources for the purpose of conducting propaganda in favor of withdrawing troops from Cyprus or (quoting from the text of the "reasoning") "saying that Armenians were subject to a genocide at the end of the First World War." The reasoning is not law, but serves as guidance to judges and prosecutors on how to apply the law." [5c] (Section 2a)

6.88 The USSD 2004 continued:

"Individuals could not criticize the State or Government publicly without fear of reprisal, and the Government continued to restrict expression by individuals sympathetic to some religious, political, and Kurdish nationalist or cultural viewpoints. Active debates on human rights and government policies continued, particularly on issues relating to the country's EU membership process, the role of the military, Islam, political Islam, and the question of Turks of Kurdish origin as "minorities"; however, persons who wrote or spoke out on such topics risked prosecution." [5c](p9)

6.89 However, the USSD also noted that “During the year [2004], there were indications that some judges in speech-related cases were conforming their rulings to recent, EU-related legal reforms.” [5c] (Section 2a)

6.90 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ noted that:

“Where crucial articles had been removed or amended, public prosecutors and judges would look for and find other reasons to punish people who express oppositional views, according to the HRFT. Both the Penal Code and the Anti-Terror Law were still used to prosecute and convict persons who exercise their freedom of expression. After the amendment of articles 159 (insulting the state and the state institutions) and 169 (adding and abetting criminal organisations) in the Penal Code, state prosecutors have started to apply article 312 (incitement to racial, ethnic or religious enmity) in order to charge people who express their views. One example I was given to underline this was a decision handed down by the Court of Cassation (Yargıtay) in Ankara. The Yargıtay had reversed a decision by the former State Security Court in Diyarbakır, which had applied article 169 for sentencing a person who had demanded the release of Abdullah Öcalan.” [16] (p11)

6.91 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005, pressure for reform coming from Turkish civil society, impatient with longstanding restrictions and ingrained institutional abuses; the incentive provided by the European Union through Turkey’s candidacy for membership; resistance to change presented by the powerful sectors within the military, security forces and the state apparatus; and the destructive effects of political violence produced a very mixed picture for freedom of expression. [9e] (p1)

6.92 The HRW report further noted that:

“Journalists and politicians who in earlier years would have received prison sentences for their statements have been acquitted, but prosecutors continue to indict people for their non-violent expression, and several writers served prison sentences during 2004. State security courts, commonly used to prosecute and imprison people for their non-violent opinions, were abolished in June 2004, but laws used to stifle free speech such as articles 159 of the criminal code (insulting state institutions) and 312 (incitement to racial hatred) remain in place, and were copied into the new criminal code that was adopted in October. [9e] (p1)

6.93 The European Commission 2004 recorded that

“With regard to freedom of expression, the situation of people sentenced for the non-violent expression of opinion is now being addressed. Since 2002, the Penal Code, the Anti-Terror Law and the Press Law have been amended to remove restrictions, resulting in a

reduction in the number of prosecutions and convictions in cases related to freedom of expression. Nevertheless, there are still a significant number of cases where non-violent expression of opinion is being prosecuted and punished.” [71c] (p36-37)

6.94 The EC report 2004 continued

“According to official figures, there has been a decrease in the number of cases filed by public prosecutors and in the conviction rate pertaining to alleged breaches of reformed Articles 159 (‘insulting the state and the state institutions’), 169 (‘adding and abetting terrorist organizations’) and 312 (‘incitement to racial, ethnic or religious enmity’) of the Penal Code and Article 7 of the Anti-Terror Law (‘propaganda in connection with the (terrorist) organisation in a way that encourages the resort to violence or other terrorist means’) between 2001 and 2003.” [71c] (p37)

6.95 The EC report 2004 further stated that

“Moreover, all those who had been convicted under the now repealed Article 8 of the Anti-Terror Law (‘propaganda against the indivisible unity of the state’), have been released from prison and, where applicable, prison sentences have been shortened following the amendment to Article 159. According to official figures, as of April 2004, 2,204 persons have been acquitted as a result of the implementation of the amended provisions by the State Security Courts.” [71c] (p37)

6.96 However, the EC report 2004 also reported that

“The impact of the reforms has not been uniform throughout the country. The amended articles of the Penal Code and Anti-Terror Law, as well as other provisions, are still used to prosecute and convict those who exercise their freedom of expression. In some cases, prosecutors have reviewed convictions based on the repealed Article 8 of the Anti-Terror Law in order to examine whether the indictment contains grounds to re-convict under alternative provisions. Moreover, numerous legislative and administrative provisions that predate the current reform process could still be used to convict those expressing non-violent opinion.” [71c] (p37)

6.97 Amnesty International’s report of 12 February 2004 stated that “Amnesty International is disturbed by the continuing practice in Turkey of investigating, prosecuting and convicting people who express non-violent dissenting opinions and make statements which ought to be regarded as contributions to lively and critical public debate befitting a democratic society.” [12d] (p7)

6.98 According to the European Commission 2004

“In the field of broadcasting there has been significant progress and previously adopted measures were implemented. The first broadcasts in languages and dialects other than Turkish were aired on radio and television by state broadcasting corporation TRT in June 2004. Broadcasts in Bosnian, Arabic, Circasian and the Kurdish dialects of Kirmançi and Zaza are ongoing. These broadcasts consist of news headlines, documentary, music and sports programmes.” [71c] (p39) (See also Section 6B on Kurdish Language)

6.99 In November 2003 the BBC reported that “Turkey has allowed Kurdish writers to hold a conference in their own language for the first time in years. Kurdish is being used in a literary conference, which opened [4 November 2003] in the southeastern city of Diyarbakir. This week long event is being attended by Kurdish writers and intellectuals from Turkey itself and abroad.” [66q]

Freedom of the media/press

6.100 The USSD 2004 stated that:

“Freedom of the press was restricted; however, the Government took a number of steps during the year to ease some of the restrictions. In June, Parliament adopted a law to expand press freedom... Independent domestic and foreign periodicals that provided a broad spectrum of views and opinions, including intense criticism of the Government, were widely available, and the newspaper business was extremely competitive. However, news items reflected a pro-authority bias. “ [5c] (Section 2a)

6.101 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, published in December 2004 noted that:

“While Turkey’s constitution establishes freedom of the media (Articles 28–31) and EU harmonization reforms have included many measures to reduce political pressure on the media, including a new Press Law in 2004, in practice major impediments remain. The media are mostly privately owned. They, and journalists specifically, have been the victims of the penal code’s provisions against aiding and abetting an illegal organization and insulting the state and state institutions, among others, despite recent reforms limiting their scope. Fines, arrests, and imprisonment are the punishments regularly allotted to media and journalists who, for example, criticize the military or portray Kurdish activists in too positive a light.” [62c] (p4)

6.102 The Freedom House report further stated that:

“Censorship is not explicit, but censorship and self-censorship occur at the levels of both editors and journalists, who are concerned about violating the many restrictions. Furthermore, media organizations are nearly all owned by giant holding companies with interests in many sectors beyond media, and they therefore influence news to serve their own business interests, in addition to allegedly trading positive

coverage for political favors. As the strength of these media groups continues to grow unchecked, they could become a bigger obstacle to press freedom than the state. The quality of the Turkish media is low.” [62c] (p4-5)

6.103 In its press release of 16 December 2004 ‘Turkey still far from European standards of press freedom’ Reporters Without Borders stated that Turkey was still far from meeting European press freedom standards. The worldwide press freedom organisation said that:

"The legislative progress that has undeniably been made should not conceal the fact that the climate remains as harsh as ever for the most outspoken journalists...The press is exposed to misuse of authority by the courts, which in practice continue to impose prison sentences and exorbitant fines that push journalists to censor themselves extensively on the most sensitive subjects such as the army and the Kurdish question...The TV and radio stations are still subject to "brazen censorship" by the High Council for Broadcasting (RTUK), while pro-Kurdish journalists continue to be the target of many kinds of pressure...Despite progress towards European standards, the gap between the declarations of good intentions and the reality is still considerable, with the result that Turkey still does not fulfil all the necessary conditions for real press freedom." [11c]

6.104 A joint press release of the International Publishers' Association (IPA) and International PEN (Writers in Prison Committee International) issued on 16 December 2004 stated:

"It is rather frightening that the New Turkish Penal Code provides virtually no progress on freedom of expression. Enshrined in the new Penal Code are a number of topics that remain taboo in Turkey such as the Cyprus issue and references to the Armenian Genocide. It is imperative that the EU takes action now to eliminate all remaining obstacles to freedom of expression under Turkish law." [80] (p1)

6.105 The European Commission 2004 reported that

"As regards freedom of the press, notable progress has been made, although further efforts are required to address outstanding issues. Article 30 of the Constitution regarding the protection of printing facilities has been amended so that the confiscation or seizure of the printing equipment of a publishing house is no longer allowed in any circumstances. The new Press Law adopted in June 2004 represents a significant step towards increasing press freedom." [71c] (p39)

6.106 The EC report 2004 continued

"Under the new law, the right of journalists not to disclose their sources is strengthened; the right to reply and correction is reinforced; prison sentences are largely replaced by fines; sanctions such as the closure

of publications, halting distribution and confiscating printing machines are removed; and the possibility to confiscate printed materials, such as books and periodicals, has been reduced. Moreover, foreigners will now be able to edit or own Turkish publications. However, Article 19, which states that those who publish information concerning ongoing court proceedings shall be punished with a heavy fine, has been criticised for being excessive.” [71c] (p39)

6.107 The European Commission 2004 continued “Despite a decrease in sanctions in the new law, fines still constitute an excessive burden, especially on local media. Such fines might contribute to the closure of publications or the continuation of self-censorship, which is particularly widespread at the regional and local level. In addition to the restrictions on freedom of expression foreseen in Article 10 of the ECHR, the law includes a reference to ‘state secrets’.” [71c] (p40)

6.108 The EC report 2004 continued “According to the Turkish Publishers Association, 43 books were banned and 37 writers and 17 publishers were put on trial in 2003. At least 18 books were banned in the first six months of 2004.” [71c] (p40)

6.109 The Reporters without Borders (RSF) annual report on Turkey published in May 2004 stated that “Changes in the law to prepare the country for entry into the European Union did not in practice increase press freedom very much. Several journalists accused of collaborating with extremist organisations were acquitted by courts but others were still being prosecuted for criticising the government or the army. Journalists defending the Kurds were also constantly harassed by police and the courts.” [11b] (p1)

6.110 The RSF annual report further stated that

“Amendments in 2003 to the anti-terrorist law generally eased pressure on journalists. Article 8, punishing ‘propaganda against the indivisible unity of the nation’ was repealed on 30 July [2003] and journalists being prosecuted under it were acquitted. Article 7, amended the same day, now says only journalists who incite violence and encourage ‘terrorist methods’ can be prosecuted for ‘making propaganda in favour of a terrorist organisation.’ The scope of article 169 of the criminal code, punishing ‘complicity with terrorist organisations,’ was narrowed and defined.... Article 159 of criminal code, the source of many unjustified prosecutions of journalists for ‘insulting the state and its institutions and threats to the indivisible unity of the Turkish republic,’ was also amended. The prison term for this offence was halved, from a year to six months, and the decriminalisation in 2002 of criticism not intended to ‘ridicule’ or ‘insult’ state institutions was maintained. [11b] (p1)

6.111 The RSF report continued “However, a court's opinion of what ‘criticism’ was remained entirely subjective and thus open to abuse. The trials of many journalists for criticising the government or the army continued in 2003 and others became new legal targets for this offence.” [11b] (p1)

6.112 RSF also reported that on the 28 March 2004 police and security forces beat nine journalists who were covering the crushing of a demonstration against fraud in local elections in south-eastern Diyarbakir. Three journalists needed hospital treatment. The report stated that “The journalists, who were beaten with clubs and chains, were only doing their job, said the international press freedom organisation, condemning such practices. It called on interior minister, Abdulkadir Aksu, to do everything possible to identify and punish those who carried out the abuses.” [11a]

6.113 According to information obtained from the Turkish Prime Minister’s website (August 2003) the sixth reform package passed in July 2003 eased restrictions on broadcasting and political campaigning during election times, which have been decreased from seven days to 24 hours. Penalties to be given to private radio and television stations, which violate the resolutions of the Supreme Board of Elections, have been defined. Stiff penalties such as closing down television channels or blacking out broadcasts will not be implemented unless a particular station repeats the same offence. [36c] (p1-3)

The High Board of Radio and Television (RTUK)

6.114 The USSD 2004 reported that:

“The Government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK) there were 226 local, 15 regional and 16 national officially registered TV stations, and 959 local, 104 regional and 36 national radio stations. Other television and radio stations broadcast without an official licence. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels. Most media were privately owned by large holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate.” [5c] (Section 2a)

6.115 The Europa Regional Survey 2005 lists the functions of the Supreme Broadcasting Board or Radio and Television Supreme Council (RTÜK) as responsible for assignment of channels, frequencies and bands, controls transmitting facilities of radio stations and TV networks, draws up regulations on related matters, monitors broadcasting and issues warnings in case of violation of the Broadcasting law. [1d] (p1200)

6.116 The European Commission 2004 reported that “As regards the Broadcasting Law (RTÜK Law), this is still frequently invoked by RTÜK in order to impose heavy penalties, including fines and the suspension or cancellation of the broadcasting license.... If this broadcaster is closed for a second time, its licence will be revoked.” [71c] (p40)

6.117 As noted in the Freedom House report ‘Countries at the Crossroads 2005 – Turkey, published in December 2004, Turkey’s Supreme Council of Radio

and Television (RTUK) has the authority to sanction broadcasters if they are not in compliance with the law or its expansive 23 broadcasting principles. [62c] (p4)

6.118 The Freedom House report also outlined that “Some very positive steps have been taken to expand media freedom. As part of the ninth EU adjustment package passed in June 2004, a member of the military will no longer be part of the RTUK. The government has issued statements instructing the RTUK to implement the new regulations.” [62c] (p5)

6.119 As noted in the USSD 2004:

“The RTUK monitored broadcasters and sanctioned them if they were not in compliance with relevant laws. Parliament elected the RTUK Council members, who were divided between ruling and opposition parties. In July, Parliament revised the RTUK law to eliminate the NSC-nominated member from the Council, reducing Council membership from nine to eight. Although nominally independent, the RTUK was subject to political pressures. The RTUK penalized private radio and television stations for the use of offensive language, libel, obscenity, instigating separatist propaganda, or broadcasting programs in Kurdish. RTUK decisions could be appealed to the Provincial Administrative Court and then to the Council of State (Danistay). The RTUK reported that, in the first 9 months of the year, it closed 4 television stations and 6 radio stations for periods of 30 days each. [5c] (Section 2a)

Internet

6.120 The USSD 2004 reported that

“The Government did not restrict access to the Internet. However, the law authorizes the RTUK to monitor Internet speech and to require Internet service providers to submit advance copies of pages to be posted online. The law also allows the police to search and confiscate materials from Internet cafes in order to protect ‘national security, public order, health, and decency’ or to prevent a crime. Police must obtain authorisation from a judge or, in emergencies, the highest administrative authority before taking such action.” [5c] (Section 2a)

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Freedom of Religion

6.121 The USSD 2004 noted that:

“The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government imposed some restrictions on Muslim and other religious groups and on Muslim religious expression in government offices and state-run institutions, including universities, usually for the stated reason of preserving the “secular State.” The Constitution establishes the country as a secular state and provides for freedom of belief, freedom of

worship, and the private dissemination of religious ideas; however, other constitutional provisions regarding the integrity and existence of the secular state restrict these rights. The Constitution prohibits discrimination on religious grounds. The state bureaucracy has played the role of defending traditional Turkish secularism throughout the history of the Republic. In some cases, elements of the bureaucracy have opposed policies of the elected government on the grounds that they threatened the secular state.” [5c] (Section 2c)

6.122 The USSD 2004 also noted that:

“The Government oversees Muslim religious facilities and education through its Directorate of Religious Affairs (Diyanet), which reports directly to the Prime Ministry. The Diyanet has responsibility for regulating the operation of the country's 75,000 registered mosques and employing local and provincial imams, who are civil servants. Some groups, particularly Alevis, claim that the Diyanet reflects mainstream Sunni Islamic beliefs to the exclusion of other beliefs; however, the Government asserts that the Diyanet treats equally all who request services... A separate government agency, the General Directorate for Foundations (Vakiflar Genel Mudurlugu), regulates some activities of non Muslim religious groups and their affiliated churches, monasteries, synagogues, and related religious property. There are 161 "minority foundations" recognized by the Vakiflar, including Greek Orthodox foundations with approximately 70 sites, Armenian Orthodox foundations with approximately 50 sites, and Jewish foundations with 20 sites, as well as Syrian Christian, Chaldean, Bulgarian Orthodox, Georgian, and Maronite foundations. The Vakiflar also regulates Muslim charitable religious foundations, including schools, hospitals, and orphanages.” [5c] (Section 2c)

6.123 The USSD 2004 continued:

“Secularists in the military, judiciary, and other branches of the bureaucracy continued to wage campaigns against what they label as proponents of Islamic fundamentalism. These groups view religious fundamentalism--which they do not clearly define, but which they assert is an attempt to impose the rule of Shari'a law in all civil and criminal matters--as a threat to the secular State. The NSC categorizes religious fundamentalism as a threat to public safety. According to the human rights NGO Mazlum-Der and other groups, some government ministries have dismissed or barred from promotion civil servants suspected of antistate or Islamist activities. Reports by Mazlum-Der, the media, and others indicated that the military regularly dismisses religiously observant Muslims from military service. Such dismissals were based on behavior that military officials believed identified these individuals as Islamic fundamentalists, which they were concerned could indicate disloyalty to the secular State. According to Mazlum-Der, the military charged individuals with lack of discipline for activities that included performing Muslim prayers or being married to women who

wore headscarves. According to the military, officers were sometimes dismissed for maintaining ties to what the military considered to be Islamic fundamentalist organizations, despite repeated warnings from superior officers.” [5c] (Section 2c)

6.124 The USSD 2004 continued:

“The law establishes 8 years of compulsory secular education for students. After completing the 8 years, students may pursue study at imam hatip (Islamic preacher) high schools. Imam hatip schools are classified as vocational, and graduates of vocational schools faced an automatic reduction in their university entrance exam grades if they applied for university programs outside their field of high school specialization. This reduction effectively barred imam hatip graduates from enrolling in university programs other than theology. Most families that enrol their children in imam hatip schools did so to expose them to more extensive religious education, not to train them as imams. In May [2004], President Sezer vetoed a bill that would have eliminated the disadvantage faced by graduates of imam hatip and other vocational schools seeking to enrol in the full range of university social sciences programs. Only the Diyanet is authorized to provide religion courses outside of school, although clandestine private courses existed. Students who complete 5 years of primary school may enrol in Diyanet Koran classes on weekends and during summer vacation. Many Koran courses functioned unofficially. Only children 12 and older could legally register for official Koran courses, and Mazlum-Der reported that police often raided illegal courses for younger children. “ [5c] (Section 2c)

6.125 The USSD 2004 further noted that:

“Some Muslims, Christians, Jews, and Baha'is faced societal suspicion and mistrust. Jews and Christians from most denominations freely practised their religions and reported little discrimination in daily life. However, there were regular reports that citizens who converted from Islam to another religion were sometimes attacked and often experienced social harassment. Proselytizing on behalf of non-Muslim religions was socially unacceptable and sometimes dangerous. A variety of newspapers and television shows have featured anti Christian and anti-Jewish messages, and anti-Semitic literature was common in bookstores. In October [2004], the Government's Human Rights Consultation Board issued a report on minorities, which stated that non-Muslims are effectively barred from holding positions in State institutions, such as the armed forces, the Ministry of Foreign Affairs, the National Police, and the National Intelligence Agency. A number of representatives of non-Muslim communities confirmed the report's conclusions.” [5c] (Section 2c)

6.126 As outlined by the Council of Europe European Commission against Racism and Intolerance in its ‘Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005’:

“ECRI is pleased to note that the authorities have incorporated the issue of minority religious groups’ rights in the recent series of legislative reforms. The law now allows religious foundations to purchase property provided that they are registered and a procedure has been introduced for recovering property that has been lost. The law has also helped to rectify various inequalities, by granting places of worship belonging to minority religious groups the same status as mosques, including as regards the payment of electricity bills, for example. Before, the Directorate of Religious Foundations paid for electricity only in the case of mosques. The law on construction, furthermore, now covers places of worship and not just mosques. In addition, the mufti’s permission to build a non-Muslim place of worship is no longer required. These legislative changes all make for greater religious freedom and may be seen as a step in the right direction.

ECRI notes with concern, however, that minority religious groups still experience problems in practice. To begin with, the above-mentioned laws, some of which were enacted over a year ago, have not really come into force in the opinion of representatives of the religious communities concerned. According to these representatives, they encounter major resistance whenever they call for the laws to be applied, including notably from the Directorate of Religious Foundations which is attached to the Prime Minister’s Office. The Directorate is said to be unduly restrictive in the way it implements the legislative changes, rendering them virtually useless.” [76] (p24)

6.127 As noted by Kirsty Hughes in a paper dated December 2004 entitled ‘The political dynamics of Turkish accession to the EU: a European success story or the EU most contested enlargement?’

“The strict secularism adopted in Turkey has strong historical roots in the foundation of the republic in 1923 and the Atatürk drive for modernisation and westernisation, distinct from and in contrast to the Ottoman period. In today’s Turkey, the reluctance expressed by many to allow a softer approach to secularism seems to rest on two related fears – of conservative Islam and of fundamentalist Islam. Thus, many express concern that allowing fuller expression of religious identity and less control by the state may encourage the spread of conservative Islamic views and behaviour which will lead to social pressure on other Turks to adopt many elements of such a conservative lifestyle, possibly reinforced by conservative, religiously-inspired social legislation.” [77] (p11-12)

6.128 Kirsty Hughes’ paper continued:

“In terms of the state-religion divide, secularism is strictly enforced in public spaces, so that Islamic symbols or dress, notably the veil or headscarf is banned in schools, universities, parliament, and civil service (nor is restricted access to public life and work simply a female issue, since traditionalist Islamic men can also find access to the public space, including in the civil service, police and military is restricted). But

at the same time as banning religious symbols in public spaces, the Turkish state strictly controls the practice and teaching of Islamic religion in Turkey, with the department for religious affairs – the Diyanet – controlling issues from religious education in schools, to building of mosques and training of Imams. Control, rather than suppression or genuine separation, has been the mantra for many years. “ [77] (p12)

(See also Section 6A on Headscarves)

6.129 On 9 December 2004, the Office of the Prime Minister, Directorate General of Press and Information reported (quoting the newspaper Hurriyet) that prime minister Erdogan had opened a Garden of Religions in Antalya.

“Religious tolerance is a valuable legacy the Turkish Republic has inherited from the Ottoman Empire, said Prime Minister Recep Tayyip Erdogan yesterday in Antalya at the opening ceremony of a new complex of Muslim, Christian and Jewish worship sites. Erdogan pledged that his government would remove any remaining obstacles to religious freedom in Turkey... Also attending the ceremony were Dutch European Affairs Minister Atzo Nikolai, whose country currently holds the EU presidency, plus diplomats and the religious leaders of Turkey’s Greek, Armenian and Jewish communities.” [36f]

6.130 The European Commission 2004 reported that

“With respect to freedom of religion, although freedom of religious belief is guaranteed in the Constitution and freedom to worship is largely unhampered, non-Muslim religious communities continue to encounter obstacles. They lack legal personality, face restricted property rights and interference in the management of their foundations, and are not allowed to train clergy.” [71c] (p43)

6.131 According to the same USSD report on religious freedom 2004

“Approximately 99 percent of the population is officially Muslim, the majority of whom are Sunni. The actual percentage of Muslims is slightly lower; the Government officially recognizes only three minority religious communities--Greek Orthodox Christians, Armenian Orthodox Christians, and Jews--and counts the rest of the population as Muslim, although other non-Muslim communities exist. The level of religious observance varies throughout the country, in part due to the strong secularist approach of the Government. In addition to the country's Sunni Muslim majority, there are an estimated 5 to 12 million Alevis, followers of a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on the traditions of other religions found in Anatolia as well.” [5b] (p1)

6.132 According to a report from Minority Rights Group International (MRGI) ‘Minorities in Turkey’ published in July 2004

“It is estimated that there are 60,000 Armenian Orthodox Christians, 20,000 Jews and 2,000–3,000 Greek Orthodox Christians resident in Turkey. These are the only groups recognized as ‘non-Muslim minorities’. There are also 15,000–20,000 Syriac Orthodox Christians and 5,000–7,000 Yazidis. Additionally, there are Muslim religious minorities, in particular the large Alevi community, whose population is estimated at 12–15 million.” [57b] (p7)

6.133 According to the Netherlands Ministry of Foreign Affairs report 2002

“There is no persecution solely on religious grounds in Turkey. In general it can be said that the legal guarantees for freedom of religion are respected in practice. However, religious minorities can encounter practical restrictions such as administrative difficulties in managing church buildings or other real estate. It has also been known for a difference in religious background to induce a discriminatory attitude on the part of the local population or (lower) government officials. In such cases the authorities can usually be contacted.” [2a] (p89)

6.134 The European Commission report 2004 stated that

“As regards property rights, of the 2,234 applications for registration of property in line with the January 2003 Regulation, 287 have been accepted. Applications could only be made by the 160 minority foundations listed in the Regulation. Given the religious communities’ lack of a legal status, their existing properties are permanently at risk of being confiscated and attempts to recover property by judicial means encounter numerous obstacles.... A number of non-Muslim religious communities are not entitled to establish foundations, including the Catholic and Protestant communities, and are thus deprived of the right to register, acquire and dispose of property.” [71c] (p43)

6.135 The same European Commission report 2004 found that “Religious foundations continue to be subject to the interference of the Directorate General for Foundations, which is able to dissolve the foundations, seize their properties, dismiss their trustees without a judicial decision and intervene in the management of their assets and accountancy.” [71c] (p43)

6.136 The Netherlands Ministry of Foreign Affairs January 2002 reported

“The authorities are very much on the alert with regard to anyone who advocates a role for Islam in the state. So as to short-circuit people who entertain such notions, the Turkish State provides for a sort of state-controlled Islam. Secularism in Turkey does not mean a strict division of ‘Church’ and State, but rather state control of the official form of Islam. The State body set up for that purpose is the Directorate for Religious Affairs (Diyanet İşleri Müdürlüğü, often abbreviated to Diyanet), which answers directly to the Office of the Prime Minister.” [2a] (p88)

6.137 The Netherlands report continues “Anyone arguing in favour of a greater role for Islam in the Turkish State structure can expect a reaction from the authorities. Criminal charges are often brought in such cases, even if no force was involved.” [2a] (p88)

6.138 According to the European Commission 2004

“The ban on the training of clergy remains. Non-Muslim religious minorities are thus likely to encounter difficulties in sustaining their communities beyond the current generation.... Nationality criteria restrict the ability of non-Turkish clergy to work for certain churches, such as the Syriac or Chaldean.... Non-Turkish Christian clergy continue to experience difficulties with respect to the granting and renewal of visas and residence and work permits. Religious textbooks have been redrafted in order to address the concerns of Christian minorities. However, clergymen and graduates from theological colleges continue to be prevented from teaching religion in existing schools run by minorities.” [71c] (p44)

Headscarves

6.139 According to the Netherlands Ministry of Foreign Affairs 2002

“Secularists view head coverings as a symbol of political Islam and a threat to the secular nature of the Turkish Constitution.” [2a] (p90) The BBC reported in October 2003 that headscarves are seen by secular Turkish establishments as symbols of radical Islam and are banned in official ceremonies and in public buildings such as schools, universities, courtrooms and public offices. [66g][66h]

6.140 The Daily Telegraph reported in November 2002 that some of the millions who voted for the AKP, the winning party in the 2002 general election, did so in the hope that the AKP would end the ban on the headscarf worn by, among others, Emine, the wife of party leader Mr Erdogan. [40]

6.141 The Turkish Daily News reported in September 2003 that a Headscarf fashion show was performed in Ankara. Parliamentary Speaker Bulent Arinc’s wife, AKP women deputies and many other guests participated in the fashion show. [23f]

6.142 According to the BBC the October 2003 celebrations to mark the 80th Anniversary of the foundation of the Turkish Republic were marred by a row over the wearing of headscarves. President Sezer refused to invite any headscarf-wearing wives of senior officials including the Prime Minister Recep Tayyip Erdogan to the presidential reception to mark the event. Mr. Erdogan and his cabinet did attend the reception, but the overwhelming majority of the AKPs 367 Parliamentarians stayed away. [66g][66h]

6.143 The BBC reported that on 29 June 2004 the European Court of Human Rights upheld the right of Turkish universities to ban Muslim headscarves. [66x] The Daily Telegraph (June 2004) reported that the seven judges came to an unanimous judgement that headscarf bans were appropriate when issued to

protect the state, especially against extremist demands. [44d] A Human Rights Watch report from July 2004 described the ECtHR judgement as disappointing. [9c] (p1)

6.144 As noted by Kirsty Hughes in her paper dated December 2004:

“The secularism-Islam debate remains a powerful, divisive and contentious theme in Turkish politics... The *hijab* or headscarf has become the most potent symbol of this debate, which then inevitably spills over into other connected debates on human rights. Many secular human rights and women’s NGOs, in asserting and calling for both women’s rights and religious rights as part of the wider range of basic rights, do now argue that it is, and must be, a woman’s individual choice and right to dress as she likes, and that traditional (mostly male) conservative secularists and Islamists on both extremes should stop focusing their fight and disagreement over the control of what women wear... International human rights organisations have also waded into this debate. Human Rights Watch, has called for women’s individual rights to be respected, and for full access to higher education for all women irrespective of their independent decisions on head covering... Overall, to continue banning the headscarf in universities and in parliament and in public offices, amounts to an extensive discrimination against women in the workplace rather than simply reflecting a particular form of secularism and so the status quo may be unlikely to hold. “ [77] (p13-14)

6.145 The thirty-second session of the Committee on the Elimination of Discrimination against Women) (CEDAW) in its concluding comments on Turkey dated 28 January 2005 stated:

“The Committee requests the State party to monitor and assess the impact of the ban on wearing headscarves and to compile information on the number of women who have been excluded from schools and universities because of the ban. It also calls on the State party to undertake further awareness-raising on the importance of education or women’s equality and economic opportunities, and to overcome stereotypical attitudes.” [81] (p7)

6.146 On 23 February 2005 the BBC reported that the Turkish parliament had granted an amnesty to 677,000 men and women who have been expelled from university over the past five years.

“The amnesty includes those expelled from university because their refusal to remove the Islamic headscarf. However, the regulation restricting the scarf remains in place. Turkey maintains a division between religion and state which includes a ban on the headscarf in universities and the civil service. Only a small minority of those expelled from Turkish universities over the last five years fell foul of the headscarf ban, but such is the controversy over it that the ban dominated debate before the amnesty issue came to parliament. Nearly 10 years after the restriction came into force, the two sides -

religious Muslims and the secular establishment - are no closer to consensus. The secular establishment insists that the ban maintains the separation of religion and state enshrined in the constitution. More orthodox Muslims and human rights campaigners complain that it is an abrogation of freedom of expression and worship. A clear majority in Turkey, which is overwhelmingly Muslim, would like to see the ban lifted. Those who continue to wear a headscarf may now reapply to university, but they will not be allowed to study. " [66ap]

6.147 As noted in the USSD 2004:

"Authorities enforced the long-standing prohibition on the wearing of headscarves at universities and by civil servants in public buildings. Women who wore headscarves and persons who actively showed support for those who defied the prohibition were disciplined or lost their jobs in the public sector. Students who wear head coverings are officially not permitted to register for classes. Many secular Turkish women accused Islamists of using advocacy for wearing the headscarf as a political tool and expressed fear that efforts to remove the headscarf ban would lead to pressure against women who chose not to wear a head covering. Secular women also maintained that many women wore headscarves under pressure from men. In June, the ECHR ruled that Turkish universities have the right to ban Muslim headscarves; the ruling was under appeal at year's end." [5c] (Section 2c)

Alevis including Alevi Kurds

6.148 The USSD report on religious freedom 2004 stated that:

"In addition to the country's Sunni Muslim majority, there are an estimated 5 to 12 million Alevis, followers of a belief system that incorporates aspects of both Shi'a and Sunni Islam and draws on the traditions of other religions found in Anatolia as well. Alevi rituals include men and women worshipping together through oratory, poetry, and dance. The Government considers Alevism a heterodox Muslim sect; however, some Alevis and radical Sunnis maintain Alevis are not Muslims." [5b] (p1)

6.149 The USSD report on religious freedom also noted that:

"Alevis freely practice their beliefs and build "Cem houses" (places of gathering). Many Alevis allege discrimination in the Government's failure to include any of their doctrines or beliefs in religious instruction classes in public schools, which reflect Sunni Muslim doctrines. They also charge a bias in the Diyanet [Directorate for Religious Affairs], which views Alevis as a cultural rather than religious group; the Diyanet does not allocate specific funds for Alevi activities or religious leadership. During a September [2004] visit to Germany, Prime Minister Erdogan told reporters that "Alevism is not a religion" and said Alevi Cem houses are "culture houses" rather than "temples." [5b] (p3)

6.150 The USSD report on religious freedom 2004 estimates that there are between 5 to 12 million Alevis in Turkey. [5b] (p1) The MRGI report 'Minorities in Turkey' published in July 2004 estimates that the Alevi population is 12–15 million. [57b] (p7) The European Commission 2004 states that there are an estimated Alevi population of 12-20 million. [71c] (p45)

6.151 The World Dictionary of Minorities published in 1997 states that "Alevis differ outwardly from Sunni Muslims in the following ways. They do not fast in Ramadan, but do during the Ten Days of Muharram (the Shi'i commemoration of Imam Husayn's martyrdom). They do not prostrate themselves during prayer. They do not have mosques. They do not have obligatory formal almsgiving, although they have a strong principle of mutual assistance." [57a] (p380)

6.152 The USSD report on religious freedom 2004 estimates that there are between 5 to 12 million Alevis in Turkey. [5b] (p1) The MRGI report 'Minorities in Turkey' published in July 2004 estimates that the Alevi population is 12–15 million. [57b] (p7) The European Commission 2004 states that there are an estimated Alevi population of 12-20 million. [71c] (p45)

6.153 The Netherlands Ministry of Foreign Affairs 2002 reported that

"The Turkish State does not regard the Alevi faith as a separate religion, and the Alevis are not an officially recognised religious minority. Alevis' identity cards have 'Islam' indicated as religion.... Many Alevis accuse the Turkish Directorate for Religious Affairs of being geared solely towards the Sunni faith. Nor does the Turkish education system allow any room for the Alevi interpretation of Islam." [2a] (p91-92)

6.154 The European Commission 2003 reported that "The previously banned Union of Alevi and Bektashi Associations was granted legal status in April 2003, which allowed it to pursue its activities. However, concerns persist with regard to representation in the Directorate for Religious Affairs (Diyanet) and related to compulsory religious instruction in schools, which fail to acknowledge the Alevi identity." [71b] (p35)

6.155 The European Commission 2004 reported that "As far as the situation of non-Sunni Muslim minorities is concerned, there has been no change in their status. Alevis are not officially recognised as a religious community, they often experience difficulties in opening places of worship and compulsory religious instruction in schools fails to acknowledge non-Sunni identities." [71c] (p44)

6.156 Mystical Sufi and other religious-social orders and lodges

As noted in the USSD 2004 "The law prohibits mystical Sufi and other religious-social orders (tarikats) and lodges (cemaats). The military ranked tarikats among the most harmful threats to secularism; however, tarikats remained active and widespread and some prominent political and social leaders associated with tarikats, cemaats, and other Islamic communities." [5c] (Section 2c)

Non-Muslim minorities

6.157 The USSD 2004 reported that:

“The 1923 Lausanne Treaty exempts non-Muslim minorities--which the Government interprets as referring exclusively to Greek Orthodox Christians, Armenian Orthodox Christians, and Jews--from Islamic religious and moral instruction in public schools upon written notification of their non-Muslim background. These students may attend Muslim religious courses with parental consent. Others, such as Catholics, Protestants, and Syriac Christians, are not exempted legally; however, in practice they were allowed to obtain exemptions. Officially recognized minorities may operate schools under the supervision of the Ministry of Education. Such schools are required to appoint a Muslim as deputy principal; reportedly these deputies had more authority than their nominal supervisors. The curriculum of these schools included Greek Orthodox, Armenian Orthodox, and Jewish instruction. In May, the Education Ministry stated that children with non-Muslim mothers could attend minority schools; previously, only those with non-Muslim fathers were permitted.” [5c] (Section 2c)

6.158 The USSD 2004 further reported that:

“Under existing restrictions, religious communities other than Sunni Muslims cannot legally train new clergy in the country for eventual leadership. Coreligionists from outside the country have been permitted to assume leadership positions in rare cases, but in general all religious community leaders, including Patriarchs and Chief Rabbis, were required to be citizens...The law allows the 161 minority foundations recognized by the Vakiflar to acquire property and the Vakiflar has approved 292 applications by non-Muslim foundations to acquire legal ownership of properties. However, the legislation does not allow the foundations to reclaim hundreds of properties expropriated by the State over the years” [5c] (Section 2c)

6.159 The USSD 2004 continued:

“In January [2004], the Government replaced the Minorities Subcommittee, a body that monitored minorities as potential threats to the country, with the Board to Assess Problems of Minorities. Unlike the subcommittee, the board does not include representatives of the military and intelligence agencies and is charged with supporting the rights of non-Muslims. However, there were no indications that the new board made any serious efforts to address the concerns of non-Muslims during the year. In September [2004], Parliament adopted a law that prohibits forcing persons to declare or change their religious, political, or philosophical beliefs or preventing them from expressing or spreading such beliefs. The law specifically prohibits the use of force or threats to prevent persons from gathering for worship or religious

ceremonies. Violations of the law are punishable with 1 to 3 years in prison.” [5c] (Sect. 2C)

Christians

6.160 As noted in the European Commission 2004 report “The unofficial estimated Christian populations are: 60,000 Armenian Orthodox Christians; 20,000 Roman Catholics; 20,000 Syriac Orthodox Christians; 3,000 Greek Orthodox Christians; 2,500 Protestants; 2,000 Syriac Catholics; 2,000 Armenian Catholics; 500 Armenian Protestants; and 300 Chaldean Catholics. [71c] (p43)

6.161 The European Commission 2004 reported that

“The longstanding application of the Protestant church in Diyarbakir to register as a place of worship was refused in May 2004. Requests to restore churches continue to be subject to slow and cumbersome authorisation procedures.... The ban on the training of clergy remains.... Non-Turkish Christian clergy continue to experience difficulties with respect to the granting and renewal of visas and residence and work permits.” [71c] (p44)

6.162 The EC report 2004 continued

“Christians are still sometimes subject to police surveillance in Turkey, as illustrated by the presence of policemen during Protestant religious services who, in some instances, check the congregation’s identity cards. However, the possibility for legal redress is increasing. For instance, in April 2004 the presenter of a local television news was convicted for inciting hostility towards Turkish Protestants in Ankara and his case is currently before the Court of Cassation.” [71c] (p44)

6.163 The USSD report on religious freedom 2004 outlined that:

“Police occasionally bar Christians from holding services in private apartments, and prosecutors sometimes open cases against Christians for holding unauthorized gatherings. [However] In May [2004] a Diyarbakir court acquitted Ahmet Guvener, pastor of the Diyarbakir Evangelical Church, in the opening hearing of his trial on multiple charges of operating an "illegal" church. The prosecutor told the court that Guvener's actions no longer constituted a crime due to international law and recent Turkish legal reforms. “ [5b] (p3)

6.164 The USSD report on religious freedom 2004 also noted that:

“No law explicitly prohibits proselytizing or religious conversions; however, many prosecutors and police regard proselytizing and religious activism with suspicion, especially when such activities are deemed to have political overtones. Police occasionally bar Christians from handing out religious literature and sometimes arrest proselytizers for disturbing the peace, "insulting Islam," conducting unauthorized

educational courses, or distributing literature that has criminal or separatist elements. Courts usually dismiss such charges. Proselytizing is often considered socially unacceptable; Christians performing missionary work are sometimes beaten and insulted. If the proselytizers are foreigners, they may be deported, but generally they are able to re-enter the country. Police officers may report students who meet with Christian missionaries to their families or to university authorities.” [5b] (p4)

6.165 A press statement from Mazlumder (Organisation of Human Rights and Solidarity for Oppressed People Istanbul Branch) dated 10 February 2005 outlined that:

“Izmit Protestant Church has twice been stoned by unidentified people within one week, and suffered financial damage. One of the hot issues in the popular agenda in Turkey lately, debates around Christian missionary work entered a new phase by these incidents. It is only regrettable that debates on missionary work and complaints against the opening of new churches and distribution of Bibles have been followed by such act of vandalism... Authentic Islamic sources contain no provisions legitimating forced intervention in one’s faith. A long debated issue in Turkey, freedom of belief, should not be interpreted differently according to changing circumstances and potential beneficiaries. [82a]

6.166 As reported in the USSD 2004:

“In March, authorities approved an application by a group of expatriate, German-speaking Christians to establish a religious/charity association in Alanya, Antalya Province. In the past, authorities rejected such applications on the grounds that the law prohibited associations based on religion. The arrangement authorizes group members to build and maintain a church, but does not explicitly allow them to worship. The Ecumenical Patriarchate in Istanbul continued to seek to reopen the Halki seminary on the island of Heybeli in the Sea of Marmara, which was closed in 1971 when the State nationalized private institutions of higher learning. The Ecumenical Patriarchate faced a series of other problems related to its properties. “ [5c] (Section 2c)

6.167 The Netherlands Ministry of Foreign Affairs 2002 reported that “Turkey has 17,000 to 21,000 Syriac Orthodox Christians of whom approximately 15,000 to 16,000 live in Istanbul and at the most 2,000 in tur Abdin. A few live in Ankara, Izmir, Iskenderun and Antakya.” [2a] (p160)

Jews

6.168 As outlined by the Council of Europe European Commission against Racism and Intolerance in its ‘Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005’:

“The Jewish community in Turkey is not very large. Until recently, it enjoyed a relatively peaceful existence in Turkey, aside from a few

isolated antisemitic (sic) incidents. In the opinion of representatives of the Jewish community, the climate has suddenly changed, mainly in the wake of a series of international terrorist attacks in November 2003, targets of which included two synagogues in Istanbul. There is now a feeling of insecurity in the Jewish community because of these and other incidents, such as physical assaults on individuals purely because they are Jewish, at least one of which proved fatal. Anti-Semitic propaganda continues to appear in certain sections of the media and it is apparently not unusual to come across sweeping statements in the press in which Turkey's Jewish community is equated with the policies of the state of Israel. It also appears that legal proceedings are not always instituted under Article 312 in order to punish those who make antisemitic remarks in public, although this article prohibits incitement to racial hatred. However, ECRI notes with satisfaction that the police are working with the Jewish community to improve security and that antisemitic remarks made by the son of one of the perpetrators of the aforementioned attacks have been condemned by the government and that legal proceedings were instituted against him by the judicial authorities. [76] (p25)

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Freedom of Assembly and Association

6.169 The USSD 2004 reported that "The Constitution provided for freedom of assembly; however the Government sometimes restricted this right in practice. Significant prior notification to authorities was required for a gathering, and authorities could restrict meetings to designated sites. Police beat, abused, detained, or harassed some demonstrators." [5c] (Section 2b)

6.170 The European Commission 2004 reported that

"With respect to peaceful assembly, official figures indicate that public demonstrations are subject to fewer restrictions than in the past: in the first eight months of 2004 12 demonstrations were prohibited or postponed as compared with 41 in 2003, 95 in 2002 and 141 in 2001. Demonstrations and public meetings are closely monitored by the security forces and cases of intimidation, excessive use of force and detention are still reported. NGOs have indicated that in the first seven months of 2004 the number of detentions related to demonstrations have significantly increased as compared to 2003." [71c] (p42)

6.171 According to information obtained from the Turkish Prime Ministers website (August 2003) reforms on Freedom of Association and Assembly were passed in July 2003. Demonstrations and protest marches can be postponed only for 10 days instead of 30, and only when it's necessary to do so. A demonstration staged to protest the principles of the republic, the indivisible integrity of the country and nation, general ethics and health can only be postponed for one month and only when 'there is a clear and present danger that a criminal offence will be committed.' [36e] (p2-3)

6.172 The European Commission 2004 reported that

“The Ministry of the Interior issued a circular in June 2004 instructing the local authorities to deal with demonstrations, marches and press conferences in a way that does not impinge on the rights of peaceful assembly and avoids placing restrictions on the organisers that are not in accordance with the Law on Public Meetings and Demonstration Marches. The circular emphasises that NGOs’ activities should not be subject to video recording unless there is a request from the authorities. Moreover, provided that civil society organisations’ public press statements fulfil a number of conditions, such as being less than one hour long and not obstructing traffic or daily life, they will no longer fall under this law.” [71c] (p41)

6.173 The EC report 2004 continued

“Nonetheless, existing administrative provisions could still allow Governors to restrict public activities in the interest of public order or to regulate the use of slogans and the text on banners. In August 2004 the Ministry of the Interior issued a further circular aimed at both preventing and ensuring the appropriate sanctions for the use of disproportionate force by members of the security forces. The circular encourages Governors to treat this matter as a priority, conduct appropriate studies and ensure disciplinary action is taken where necessary.” [71c] (p41)

6.174 Amnesty International reported in May 2004 that

“Disproportionate use of force by police during demonstrations was widespread. Television news programs regularly broadcast scenes of demonstrators being beaten, kicked and ill-treated by law enforcement officials. Groups particularly targeted during demonstrations included supporters of the political party DEHAP (Democratic People's Party), leftist parties, trade unionists, students and anti-war activists.” [12i] (p2)

6.175 The USSD 2004 reported that:

“The Constitution provides for freedom of association; however, there were some restrictions on this right in practice... In November, Parliament adopted a law [the Law on Associations] that reduces limits on the right to form and join associations by removing restrictions on the establishment of associations based on race, religion, sect, region, or minority status, and on student associations. The law also allows associations to co-operate with foreign organizations and establish branches abroad without prior permission. The law removes the requirement that associations inform local authorities of general assembly meetings and prohibits law enforcement authorities from searching association premises without a court order. However, the new law maintains the requirement that foreign associations receive

permission from the Interior Ministry, in consultation with the Ministry of Foreign Affairs, before engaging in activity in the country.” [5c] (Section 2c)

6.176 The European Commission 2004 reported that

“As regards freedom of association, several legislative reforms undertaken since 1999 have lifted a number of restrictions. The recently adopted new Law on Associations is important in reducing the possibility for state interference in the activities of associations. A new Department of Associations has been established within the Ministry of the Interior to perform tasks that had previously been entrusted to the Director General of Security. Notwithstanding these important developments, civil society, in particular human rights defenders, continues to encounter significant restrictions in practice.” [71c] (p40)

6.177 As confirmed by the British Embassy in Ankara on 22 April 2005, the Law on Associations (law number 5253 also referred to as Associations Law) was approved by the President on 22 November 2004 and published in the Official Gazette on the following day. [4d]

6.178 The EC report 2004 further stated that

“In addition, the new law removes the requirement to seek prior permission to open branches abroad, join foreign bodies or hold meetings with foreigners. The law also lifts all restrictions on student associations; removes the requirement to inform local government officials of general assembly meetings; and allows for the establishment of temporary and informal platforms or networks for all civil society organisations. Moreover, the law requires that governors issue warnings prior to taking legal action against associations and the security forces are no longer allowed on an association’s premises without a court order.” [71c] (p40)

6.179 The report continued “Since it was established in August 2003, the new Department of Associations has gradually taken over responsibilities for associations from the Directorate General of Security in 74 of the 81 provinces, including Ankara, but not Istanbul. Although NGOs have reported that dialogue with the authorities is more open than in the past, these changes have not yet had a significant effect in practice.” [71c] (p41)

6.180 In addition the European Commission 2004 also reported that “While acquittal rates are significantly higher than in the past, human rights defenders, including NGOs and lawyers, continue to be subjected to considerable judicial harassment, as illustrated by the number of open investigations and court cases brought against them. [71c] (p42)

(See also Section 6C on Treatment of non-governmental organisations (NGOs)

6.181 The Amnesty International report 'Judicial Harassment of human rights defenders Turkey – 'repeal one law, use another' published on 1 November 2004 reported that:

"Human rights defenders in Turkey continue to be targeted for harassment and intimidation by state officials. Trials and investigations are frequently opened against human rights defenders. While such trials usually end in acquittal or a sentence which is suspended or commuted to a fine, Amnesty International considers them to be a form of state harassment designed to intimidate human rights defenders and restrict their activities." [12m] (p1)

6.182 In its report 'Turkey: closure of Torture Prevention Group shocking' published on 14 January 2005 Amnesty International stated:

"Amnesty International has written to the President of the Izmir Bar Association, Mr Nevzat Erdemir, to express its shock at his 7 December 2004 decision to dissolve its Torture Prevention Group. The Group had been engaged in groundbreaking work in bringing justice to torture victims and its closure is a step-back in the struggle against torture... In a press statement dated 13 December Mr Nevzat Erdemir stated that one of the reasons that he was closing the Torture Prevention Group was because a project it was co-ordinating was receiving funds from the European Commission which he claimed was on a mission to divide Turkey and to damage its national interest, including through the creation of "an independent Kurdistan"...He also criticized the Group's co-operation with international organizations -- understood to include Amnesty International. The decision to close the Torture Prevention Group appears to be against Article 95 of the Turkish Law on Legal Practice which states that one of the duties of Executive Boards of Bar Associations in Turkey should be to "protect and defend supremacy of law and human rights and to work to have these subjects applied". [12o]

6.183 The Europa Regional Survey 2005 states that "Legislation enacted in March 1986 stipulated that a political party must have organisations in at least 45 provinces, and in two-thirds of the districts in each of these provinces, in order to take part in an election. Parties can take seats in the National Assembly only if they win at least 10% of the national vote." [1d] (p1193)

6.184 The USSD 2004 noted that:

"The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage; however, the Government restricted the activities of some political parties and leaders... Political parties and candidates could freely propose themselves and be freely nominated by various elements in the country; however, the High Court of Appeals Chief

Prosecutor could seek to close political parties for unconstitutional activities by bringing a case before the Constitutional Court.”[5c] (Section 3)

6.185 As noted in the USSD 2003

“In January [2003], Parliament adopted legislation requiring a three-fifths majority of the 11-member Constitutional Court, rather than a simple majority to close a party. The legislation also stipulates that parties could be closed only for reasons stated in the Constitution; previously, closures could also be based on the more broadly worded reasons cited in the political parties laws. The law allows the Constitutional Court to deprive a party of state funds as an alternative to ordering closure” [5d] (p20)

6.186 The European Commission 2004 reported that

“As regards political parties, no developments can be reported since the last Regular Report [2003]. Despite the January 2003 amendments to the Law on Political Parties, which made it more difficult to close political parties, closure cases relating to the Turkish Communist Party (TKP), the Rights and Freedoms Party (HAK-PAR) and the Democratic People’s Party (DEHAP) continue. These cases are still pending before the Constitutional Court. In November 2003 the ECtHR found that Turkey had violated Article 11 of the ECHR when it dissolved the Socialist Party of Turkey in November 1998.” [71c] (p42)

6.187 In October 2004, The Human Rights Foundation website reported that:

“The Court of Cassation rejected on 14 October the closure case against 7 political parties launched for not participating 2 successive general elections. In his announcement after the meeting Chairman of the Court of Cassation Mustafa Bumin said that the Article 105 of Law on Political Parties, upon which the cases had been launched, was annulled. He added that the closures case launched by Chief Prosecutor at the Court of Cassation against the political parties Türkiye Sosyalist İşçi Partisi (Socialist Workers Party of Turkey), Adalet Partisi (Justice Party), Türkiye Adalet Partisi (Justice Party of Turkey), Büyük Adalet Partisi (Great Justice Party), Türkiye Özürlüsüyle Mutludur Partisi (Turkey Is Happy With Its Disabled People Party), Devrimci Sosyalist İşçi Partisi (Revolutionary Socialist Workers Party) and Anayol Partisi (Main Path Party) was rejected. [83c]

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Employment Rights

6.188 As stated in the USSD 2004:

“The Constitution provides workers, except police and military personnel, the right to associate freely and form representative unions,

and they do so in practice. However, the Government maintained some limited restrictions on the right of association. Unions were required to obtain official permission to hold meetings or rallies and to allow government representatives to attend their conventions and record the proceedings; however, these requirements were not always enforced. Approximately 1.6 million of the 11 to 12 million wage and salary earners were unionized. The labor force numbered approximately 24 million, with approximately 35 percent employed in agriculture. The law prohibits antiunion discrimination; however, such discrimination occurred occasionally in practice. Union representatives claimed that employers sometimes laid off workers because they had joined a union, using alleged incompetence or economic crises as a pretext [5c] (Section 6a)

6.189 The European Commission 2004 reported that “Significant constraints remain on the right to organise and the right to collective bargaining, including the right to strike. Turkey has still not accepted Article 5 (‘right to organise’) and Article 6 (‘right to bargain collectively’ including the right to strike) of the European Social Charter.” [71c] (p18)

Major Trade Union Confederations

6.190 As recorded in Europa Regional Survey of the World: The Middle East and North Africa 2005, the major trade union confederations were TÜRK-İS (Confederation of Turkish Labour Unions) -President: Bayram Meral - and DISK (Confederation of Progressive Labour Unions) President: Süleyman Çelebi. [1d] (p1204)

Main Employers' Associations

6.191 As recorded in Europa the major trade union associations are TÜSİAD (Turkish Industrialists' and Businessmen's Association) President: Tuncay Özilhan. TISK (Turkish confederation of employers' Associations) President Refik Baydur. [1d] (p1202)

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People Trafficking

6.192 As noted in the USSD 2004:

“The law prohibits trafficking in persons; however, there were numerous confirmed cases of trafficking of women and children to and within the country for the purposes of sexual exploitation and forced labor. The law provides penalties for trafficking ranging from 8 to 12 years in prison and, at judicial discretion, an additional penalty of up to 10,000 days (approximately 27.4 years) in prison. As of November, the Government reported that prosecutors opened 12 cases against alleged traffickers. Two cases resulted in seven convictions; several other cases were ongoing at year's end. “ [5c] (Section 5)

6.193 The USSD 2004 further stated that:

“The Government participates in antitrafficking initiatives through the OSCE, the Southeast European Cooperative Initiative (SECI), the Council of Europe, the North Atlantic Treaty Organization, the International Center for Migration Policy Development, Interpol, Europol, and the Stability Pact Task Force on Trafficking in Human Beings. During the year, the Government expanded bilateral and multilateral protocols with neighboring countries and regional groups to include antitrafficking law enforcement agreements. The Government's effectiveness in assisting other countries in combating trafficking varied. Counterparts in source countries reported that, in many instances, Turkish law enforcement agencies refused to share intelligence, evidence, and other critical trafficking case information.”
[5c] (Section 5)

6.194 The USSD 2004 continued:

“The country was a destination and transit point for human trafficking. Most trafficking activity within the country, including for forced labor, occurred in Antalya, Istanbul, Izmir, and Trabzon. Trafficking syndicates also used the country as a transit country to supply the sex trade in Central Asia, the Middle East, Africa, the former Yugoslavia, and Western Europe. The Government placed the number of trafficking victims during the year at more than 200; however, the Government did not have a reliable system for victim identification. Various NGOs operating in the country and in neighboring source countries estimated the number of trafficking victims to be closer to 1,500.” [5c] (Section 5)

6.195 As outlined by the Council of Europe European Commission against Racism and Intolerance in its ‘Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005’:

“Turkey is a transit country, but also a country of destination, for trafficking in women for the purpose of prostitution...ECRI notes with approval that the authorities have recently started to take steps to counter trafficking in human beings. The Criminal Code was amended in August 2002 and a new Criminal Code was adopted in September 2004, which resulted in a strengthening of the provisions which are aimed at fighting human trafficking. The Criminal Code now includes a definition of trafficking in human beings and provides for heavier penalties for traffickers. A task force has been set up to combat trafficking in human beings and has drawn up a national plan of action in this area. Training courses have also been set up for public prosecutors, judges and law enforcement officials, and the authorities have introduced assistance for victims of such trafficking, especially in terms of housing, health care and temporary residence permits for humanitarian reasons. A shelter centre for the victims of trafficking was opened in Istanbul. “ [76] (p17)

6.196 The ECRI report continued:

“However, ECRI notes with concern that trafficking in human beings for the purpose of prostitution remains a problem in Turkey. The steps taken are still too recent to have had an impact. ECRI is particularly concerned to learn that officials have been involved in trafficking. It notes, however, that some of them have been duly punished. ECRI also notes that according to some reports, the media sometimes present the issue in a sensationalist manner, reproducing prejudice against the victims of trafficking and thus encouraging such prejudice among some sections of the general public.” [76] (p17)

6.197 The European Commission 2004 reported that

“In 2000 and 2001, almost 100,000 illegal migrants were apprehended each year in Turkey. More recently, Turkish authorities report that intensified efforts against illegal migration appear to have diverted migration flows away from Turkey. The number of illegal migrants apprehended decreased to approximately 83,000 in 2002 and 56,000 in 2003. The Turkish authorities apprehended 26,680 illegal migrants between January and July 2004. Altogether 1,157 Turkish and foreign organisers of illegal migration were arrested in 2002, 937 in 2003 and 468 in the first six months of 2004.” [71c] (p139)

6.198 The EC report 2004 continued

“The Turkish authorities arrested 143 members of organised human trafficking gangs in the first seven months of 2004 compared to 1,149 in 2003. 42 court cases involving 99 victims and 149 suspects were before the serious felony courts in the first three months of 2004. A National Action Plan on Combating Trafficking in Human Beings, approved in March 2003, is being implemented. The Ministry of Interior has distributed to all relevant authorities a guidebook on the fight against trafficking in persons. A specialised expert unit dealing with trafficking cases was established by the Ministry of the Interior in January 2004. Its aim is to ensure better dialogue and co-ordination between the police and other relevant authorities.” [71c] (p140)

6.199 The EC report 2004 further stated that “The Ministry of Interior and the Gendarmerie signed agreements with an NGO to improve assistance to victims of trafficking. A shelter for victims of trafficking started to operate in Istanbul in August 2004. The Prime Ministry identified 937 associations as responsible for providing assistance to victims of trafficking on the basis of the Law on the Fund for Social Aid and Solidarity.” [71c] (p140)

6.200 The EC report 2004 continued “A directive was adopted in January 2004 providing that victims of trafficking are entitled to medical treatment free of charge. In April 2004, the Ministry of Interior authorised the governorates to extend temporary residence permits for up to six months for victims of trafficking. Residence permits may be extended further if necessary.” [71c] (p140-141)

Freedom of Movement

6.201 As regards freedom of movement within the country, foreign travel, emigration and repatriation, the USSD 2004 reported that “The law provides for these rights; however, at times the Government limited some of these rights. The Constitution provides that a citizen's freedom to leave the country could be restricted only in the case of a national emergency, civic obligations (military service, for example), or criminal investigation or prosecution.” [5c] (Section 2d)

6.202 A senior official in the Passport Office, Ministry of Interior, explained to the Immigration and Nationality Directorate's fact-finding mission to Turkey in 2001 the passport issuing procedures in Turkey. All Turkish citizens are entitled to a passport. An applicant must apply in person; an application cannot be made through an agent. The application must be made in the local area where the applicant resides. The regional passport office makes checks to verify his or her identity. These checks include establishing whether the applicant has criminal convictions and/or is wanted by the authorities. The applicant is always asked why the passport is wanted. [48] (p10)

6.203 An interlocutor advised the IND fact-finding mission that the issue of a passport would not be withheld if the applicant had not completed his military service; this is because there are provisions in law to defer military service. [48] (p11)

6.204 However, the Netherlands Ministry of Foreign Affairs' 'Turkey/military service' report published in July 2001 records that “Persons of call-up age are not usually issued with passports, and cannot have passports renewed. In a small number of cases, and with the consent of the military authorities, a passport with a short period of validity is issued. The entry ‘yapmistir’ (done) or ‘yapmamistir’ (not done) in the passport indicates whether the holder has completed military service or not.” [2b] (p15)

6.205 The IND fact-finding mission was also told that there are four different types of passport:

- i. Red (diplomatic) passports
- ii. Grey (service) passports. Issued to lower rank government officials who are being sent abroad for a short time on official duty.
- iii. Green (officials') passports. Issued to government officials, who have reached a certain level, The qualification for these passports is based on hierarchy and length of service in government.
- iv. Blue. Issued to ordinary citizens. [48] (p10)

6.206 The Immigration and Refugee Board of Canada reported in July 2003 that

“Turkish citizens wishing to enter or exit Turkey are also required to have valid and appropriate travel documents. In the absence of such documents, airport and land border authorities will request that the individual present other documentation to assist in proving their Turkish

citizenship, for example a drivers license, school records, birth registration card etc. However, since Turkish citizens are required to report their lost or stolen passports to the nearest Turkish embassy while abroad, Turkish border authorities must ask why the citizen does not have the appropriate travel documents. In addition to the inquiry, any information and all documents provided to the authorities by the individual are verified with the Turkish Ministry of Internal Affairs.” [7d] (p1-2)

Nüfus card/ identity card

6.207 The Netherlands Ministry of Foreign Affairs 2002 reported that

“Each district has a population registry, also known as the population office, ultimately coming under the Ministry of the Interior, where all the district's inhabitants are supposed to be registered. In practice, many people are entered in the population register for their place of birth or even their parents' place of birth. Since 28 October 2000 each citizen has had his/her own single, nationally registered, unalterable eleven-digit identity number. Population registers do not include details of addresses. Limited records of addresses are kept by neighbourhood heads.” [2a] (p19)

6.208 The Netherlands report continued “The population registry also has responsibility for issue of identity cards (in Turkish: nüfus cüzdanı) often referred to in other languages too as nüfus cards. The nüfus card is the only valid domestic identity document, and everyone is required to carry it at all times. Births have to be registered to the population registry for the place of birth without delay, so that a nüfus card can be issued straight away.” [2a] (p19)

6.209 The IND fact-finding mission to Turkey of March 2001 saw at first hand fake identity cards being sold openly on the streets of Istanbul within sight of the police. [48] (p16) In comments submitted to the Advisory Panel on Country Information in September 2004 UNHCR stated that this must be an exceptional situation. [18a]

6.210 The USSD 2004 reported that:

“National identity cards list a person's religious affiliation. Some religious groups, such as Baha'is, alleged that they were not permitted to state their religion on their cards; however, there were reports that authorities have become more flexible regarding the religious affiliation that may be listed. In September [2004], an Ankara court approved the application of a family requesting permission to leave the religion portion of their children's identity cards blank until they reach 18 years of age. Conversion to another religion entails amending a person's identity card; there were reports that local officials harassed persons who converted from Islam to another religion when they sought to amend their cards. Some persons who were not Muslim maintained that listing religious affiliation on the cards exposed them to discrimination and harassment.” [5c] (Section 2c)

(See also Section 5 on The problem of falsified documents)

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Treatment of Foreigners Seeking Asylum in Turkey

6.211 The USSD 2004 noted that:

“An administrative regulation provides for the granting of asylum or refugee status in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol; however, the Government exercised its option under the Convention of accepting obligations only with respect to refugees from Europe. The Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution...The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting the small number of European refugees and asylum seekers...The Government offered non-European refugees temporary asylum while they were waiting to be resettled in another country. The UNHCR conducted refugee status determination for applicants from non European countries and facilitated the resettlement of those recognized as refugees. The UNHCR reported that no recognized refugees were returned to a country where they feared persecution during the year; however, three asylum seekers whose applications remained under review by the UNHCR were deported to their country of origin.” [5c] (Section 2d)

6.212 The USSD 2004 further stated that:

“Regulations require asylum seekers to apply within 10 days of arrival and submit proof of identity in order to register for temporary asylum. An appeal can be lodged within 15 days of a decision by authorities not to receive an asylum claim; after the appeal procedure, rejected applicants are issued a deportation order that can be implemented after 15 days. According to the UNHCR, the Government demonstrated greater flexibility than in past years in applying these regulations; however, asylum seekers arriving in the country after transiting through one or more other countries continued to face difficulties in lodging an application. As a result, some of the refugees and asylum seekers registered with the UNHCR were unable to register with the Government or otherwise legalize their status in the country.” [5c] (Section 2d)

6.213 The European Commission 2004 reported that

“In the area of asylum, work has started on drawing up a National Action Plan to implement the asylum strategy adopted in 2003. The Ministry of Interior issued an internal directive on the handling of asylum applications, which is meant to serve as a bridge between the

current asylum regulation and the new asylum law that Turkey aims to adopt in 2005. The new directive reflects in general a positive, protection-oriented approach and incorporates the minimum standards of the new *acquis* on asylum procedures. It also introduces an 'accelerated procedure' for several categories of asylum applicants, as well as lifting the ten day time limit for applications. However, lack of clarity on the steps to be followed under the 'accelerated procedure' raises concerns." [71c] (p139)

6.214 The EC report 2004 continued "In general, Turkey faced a slight decrease in arrivals of asylum seekers. However, there was a significant increase in applicants for asylum from Africa, mainly from Somalia, Sudan, Eritrea and Ethiopia. There is still a large caseload from previous years, mainly Iranians (70%). Although there are very few new applicants from Iraq, many applications submitted in previous years have not yet been finalised." [71c] (p139)

6.215 The EC report 2004 further reported that

"Turkey applies the principle of non-refoulement to aliens at its borders. Applications for asylum are handled in co-operation with UNHCR. However, there are reports that aliens who are apprehended away from the border are not always permitted to submit an application for asylum, as they are considered to have acted in bad faith; the UNHCR encounters difficulty in gaining access to such persons while in detention." [71c] (p139)

6.216 The EC report 2004 continued

"Although UNHCR continues to bear the principal responsibility for meeting the material needs of non-European refugees and applicants for asylum, the Turkish authorities continued to provide direct aid in the form of cash, food, clothing, health services and heating material. Non-European asylum applicants receive medical assistance from UNHCR while they are waiting for their application to be decided; if they are granted the status of temporary asylum seeker, they are then entitled to use state health care facilities. The children of applicants for asylum have the right to attend Turkish primary schools." [71c] (p139)

6.217 The EC report 2004 further stated that

"Turkey continued with the training activities on asylum issues in co-operation with UNHCR. During 2003 and the first half of 2004, UNHCR organised several seminars for Turkish officials. In addition, 527 police officers were trained in international and national law on asylum and migration, and international best practice. Training was provided in October 2003 for Ministry of Justice personnel, including judges and prosecutors, on International Refugee Law." [71c] (p140)

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6b. Human Rights: Specific Groups

Ethnic Groups

6.218 As outlined in the Netherlands Ministry of Foreign Affairs Official General report on Turkey published in January 2002 “Turkey has a multi-ethnic, multi-religious society. Ethnically and linguistically, in addition to Turks and Kurds, Turkey also includes small groups of Armenians, Greeks, Turkmen’s, Circassians, Laz, Bulgarians, Georgians and Arabs.” [2a] (p7)

6.219 A report from Minority Rights Group International (MRGI) ‘Minorities in Turkey’ published in July 2004 noted that:

“The Kurdish community is the largest ethnic minority in Turkey, with a population estimated to be at least 15 million. They mostly live in south-eastern and eastern Turkey, although a large number have migrated to cities in western Turkey. The Roma population is over 500,000 according to official records, and Roma live throughout Turkey. The Bosnian population is more than 1 million. Arabs live in all parts of Turkey, but are concentrated in the provinces of Antakya, Mardin and Siirt. Some define themselves by religion (as Alevis) rather than as Arabs. The Circassians, who number over 3 million, live throughout Turkey. Laz live around Artvin, Rize and in the large cities. Their population is between 500,000 and 1 million. Ethnic Bulgarians mostly live in Thrace.” [57b] (p7)

6.220 The World Dictionary of Minorities (1997) reported that despite efforts to include all minorities in the 1923 Treaty of Lausanne, Turkey refused any distinct status for non-Muslims. Therefore only Greeks, Armenian Christians and Jews were formally acknowledged as minorities. [57a] (p379)

6.221 The US State Department report (USSD) 2004, published 28 February 2005, reported that “The Constitution regards all citizens as equal and prohibits discrimination on ethnic or racial grounds; however, societal and official violence and discrimination against women and minorities remained problems...The Constitution provides a single nationality designation for all Turks and does not recognize ethnic groups as national, racial, or ethnic minorities.” [5c] (Section 5)

6.222 As outlined by Kirsty Hughes in a paper dated December 2004 entitled ‘The political dynamics of Turkish accession to the EU: a European success story or the EU most contested enlargement?’:

“The issue of minority rights burst strongly into Turkish public debate in November 2004 with the publication of a report on minorities by the Human Rights Advisory Board, an advisory body to the Prime Minister... In the ensuing public and media debate, the government

distanced itself firmly from the report (leaving, some critics said, the authors exposed to vilification and criticism) – while some from the nationalist right suggested its authors should be charged with treason. Many academic observers and human rights commentators suggest the report is a good and serious one and that the furore shows that these issues have been taboo for too long but at least now they are entering into wider, if not yet very rational, discussion.” [77] (p19)

6.223 Kirsty Hughes paper continued:

Turkey in fact encompasses extensive ethnic and religious diversity. The two largest minority groups are the Alevis (a religious minority) and Kurds (some of who are Alevis). Some suggest that up to 47 different ethnic groups can be identified in Turkey. Officially, the only minorities recognised in Turkey were defined by the 1923 Treaty of Lausanne to be three non-Muslim religious groups – orthodox Greeks, Jews and Armenians. Not only did this not recognise other religious minorities but it also ignored ethnic and linguistic definitions of minorities, which is not compatible with modern international human rights law on minorities. The report called for a broader definition of citizenship, so that citizens could be citizens ‘of Turkey’ (in Turkish *Turkiyeli* – of Turkey), rather than Turks.” [77] (p19)

Kurds

6.224 As noted in the USSD 2004:

“Citizens of Kurdish origin constitute a large ethnic and linguistic group. Millions of the country’s citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish ethnic identity or publicly espoused using Kurdish in the public domain risked public censure, harassment, or prosecution.” [5c] (Section 5)

6.225 As outlined by the Council of Europe European Commission against Racism and Intolerance in its ‘Third report on Turkey - Adopted on 25 June 2004 and made public on 15 February 2005’:

“According to estimates, there are between twelve and fifteen million Kurds living in Turkey. There are no official statistics as national censuses do not take account of people’s ethnic origins. The Kurds live mainly in the South-East, although many of them have left the region as part of the drift to the towns and also because of the armed conflict that went on for several years between the authorities and the PKK.” [76] (p20)

6.226 The ECRI report also stated:

“ECRI is pleased to note that the constitutional and legislative changes in the field of human rights and fundamental freedoms should help to give the Kurds greater freedom of expression, freedom of assembly and freedom of association. It notes, however, that in the case of the Kurds, such freedoms are still severely curtailed, especially in practice.

ECRI notes in particular reports that Kurdish students have been arrested and/or expelled from university for having signed petitions or demonstrated in support of the teaching of Kurdish in universities. A number of persons have allegedly been convicted for listening to Kurdish music in private. In some cases, however, persons who have expressed their Kurdish identity by peaceful means have been acquitted. ECRI hopes that the new laws will pave the way for a rapid improvement in this area. It notes that parents are now permitted by law to give their children Kurdish first names, even though a circular prohibits them from choosing names incorporating the letters Q, W or X, which exist in the Kurdish language but not in the Turkish alphabet.“ [76] (p22)

6.227 The Netherlands Ministry of Foreign Affairs 2002 estimated that there were 13 million Kurds in Turkey. [2a] (p7) It also stated that “The great majority of the Kurdish population speaks Kurmanji, while Zaza, which is unintelligible to Kurmanji speakers, is spoken in the provinces of Tunceli, Elazig, Diyarbakir, Bingöl and Sanliurfa. Most of the Kurdish population is Sunni Muslim. The remainder, namely speakers of Zaza, are Alevi.” [2a] (p124)

6.228 The Netherlands report 2002 also observed that

“The Government in Turkey does not persecute Kurds solely because they are Kurds. This would be incompatible with the concept of the state, according to which a person’s ethnic origins do not matter as long as they comply with the principles of the Turkish Republic. All Turkish citizens (including the Kurds) therefore have equal access to public institutions such as health care and authorities responsible for issuing official documents.” [2a] (p126)

6.229 The European Commission Regular Report on Turkey’s progress towards Accession 2004, published 6 October 2004

“As regards the protection of cultural rights, there has been important progress since 1999. The Constitution has been amended lifting the ban on the use of languages other than Turkish.... More generally, the authorities have shown greater tolerance towards the use of Kurdish. Despite the progress that has been made, there are still considerable restrictions on the exercise of cultural rights.”

Kurdish Language

6.230 As noted in the European Commission 2004 report

“In the field of broadcasting there has been significant progress and previously adopted measures were implemented. The first broadcasts in languages and dialects other than Turkish were aired on radio and television by state broadcasting corporation TRT in June 2004. Broadcasts in Bosnian, Arabic, Circasian and the Kurdish dialects of Kirmanji and Zaza are ongoing. These broadcasts consist of news headlines, documentary, music and sports programmes.” [71c] (p39)

6.231 The EC report 2004 continued

“A new regulation was published in January 2004 which established the possibility for private national television and radio channels, in addition to the state broadcaster TRT, to broadcast in languages other than Turkish. This regulation opens the decisions of the High Audio Visual Board (RTÜK) to judicial appeal and removes the requirement that presenters wear ‘modern’ clothing. Notwithstanding these improvements the regulation is still rather restrictive. It sets strict time limits for broadcasts in other languages (for television, four hours per week, not exceeding 45 minutes per day and for radio, five hours per week, not exceeding 60 minutes per day).” [71c] (p39)

6.232 Amnesty International's report ‘Europe and Central Asia Summary of Amnesty International's Concerns in the Region January - June 2004 published 1 September 2004’ stated that:

“During this period a fundamental taboo was finally broken when state television and radio channels began broadcasts for the first time in languages other than Turkish, a measure of symbolic significance in signalling official acceptance that Turkish is not the only language belonging to citizens of the Turkish Republic. The much delayed implementation of the August 2002 law, which had provided for broadcasts in ‘different languages and dialects traditionally used by Turkish citizens in their daily lives’, came about in the week beginning 6 June when state television and radio channels began broadcasts in Bosnian, Circassian, Kirmançi, Zazaca and Arabic.... It is probable that in time the limited non-Turkish language broadcasts offered by the state broadcasting services will be supplemented by private and eventually local television channel broadcasts.” [121] (p57)

6.233 As noted in the USSD 2004:

“While there were some improvements during the year, the Government maintained significant restrictions on the use of Kurdish and other ethnic minority languages in radio and television broadcasts and in publications... During the year, the HRF recorded fewer complaints that authorities prevented parents from registering their children under traditional Kurdish names.” [5c] (Section 5)

6.234 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, published in December 2004 noted that “The legalization of these [non-Turkish language] broadcasts was a major step for Kurdish rights and freedom of expression...The broadcasts have been criticized for being too short and being limited to the national station, and liberalization still has a long way to go.¹¹ However, the significance of the changes cannot be overstated. [62c] (p5)

6.235 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005:

“In June 2004 state television began broadcasts in Kurdish, Bosnak, Circassian, Arabic, and Zaza. The programs were short with uninspiring content, but represented a significant change in official attitudes to minority languages. Private radio stations in southeastern Turkey applied to the High Council for Radio and Television for permission to broadcast in Kurdish, but had not received permission by the end of 2004.” [9e] (p2)

Teaching in Kurdish

6.236 The European Commission 2004 noted that:

“A Regulation entitled Teaching in Different Languages and Dialects Traditionally Used by Turkish Citizens in their Daily Lives entered into force in December 2003. This allowed for the first time private courses in Kurdish. Six private schools started teaching Kurdish (Kirmanci dialect) in Van, Batman and Sanliurfa in April 2004, in Diyarbakir and Adana in August 2004 and in Istanbul in October 2004. These schools do not receive financial support from the state and there are restrictions concerning, in particular, the curriculum, the appointment of teachers, the timetable and the attendees. Notably, students must have completed basic education and therefore will be older than 15.” [71c] (p49)

6.237 According to a report by MRGI published July 2004

“In Adan, Batman, Panlýurfa and Van, the Ministry of National Education, General Directorate of the Private Teaching Institutions, has permitted Kurdish courses. However, at least four other applications (Circassian and Kurdish) have not been finalised for more than a year due to bureaucratic delays and the strict requirements about establishing the courses. Further, the use of minority languages in schools, or even requesting their use, continues to lead to punishment.” [57b] (p10-11)

6.238 As noted in the USSD 2004 “During the year, private Kurdish language instruction courses were opened in Istanbul and six southeastern cities (Van, Batman, Sanliurfa, Diyarbakir, Kiziltepe, and Adana) pursuant to legislation adopted in 2002. According to observers, officials had delayed the courses by raising bureaucratic obstacles.” [5c] (Section 5)

6.239 An Amnesty International public statement dated 21 January 2005 stated that: “The largest trade union in Turkey, the Education Workers' Union (Egitim Sen) is at risk of closure in an ongoing trial because of a statement in its statute that it will work for the right of individuals to receive education in their mother tongue. Meanwhile, peaceful protests against the trial have been dispersed with excessive force and their organizers have been prosecuted.” [12p] (p1)

6.240 On 22 February 2005 it was reported on the website of Education International that: “The sentence pronounced yesterday, on 21 Feb 2005,

acquitted Egitim Sen of the charge of violating the Turkish constitution. The judge insisted on his former decision ruled in favour of Egitim Sen, and did not find any legal ground for closing down the union. “ [6]

Pro-Kurdish political parties

(See [Annex B](#) for details of political parties)

6.241 As outlined by the Council of Europe European Commission against Racism and Intolerance in its ‘Third report on Turkey (adopted on 25 June 2004 and made public on 15 February 2005):

“On the subject of freedom of association, ECRI notes that the bans on parties representing the interests of the Kurdish community have remained in place despite rulings by the European Court of Human Rights, which has frequently found against the government for violating freedom of association in this area. ECRI notes with approval that, following the constitutional and legislative amendments, it will be more difficult to ban a political party in future. In addition, cautions and ancillary penalties such as the removal of financial support may replace or precede outright bans on political parties. “ [76] (p22)

6.242 As outlined by Kirsty Hughes in her paper dated December 2004:

“Development of a modern Kurdish political culture is still difficult. The 10% share of votes limit on political representation means Kurdish parties cannot break through into parliament, and the Kurdish party Dehap is under threat of closure. More positively, with her release from prison earlier in 2004, former Kurdish MP Leyla Zana is aiming to establish a broader Kurdish political movement. But many doubt how much more progress can be made unless and until the conflict in the South East finally comes to an end.” [77] (p25)

HADEP

6.243 The Netherlands Ministry of Foreign Affairs 2002 reported that “The pro-Kurdish HADEP [People's Democracy Party], was established in 1994 as a successor to the successively banned HEP, DEP and ÖZDEP.... HADEP campaigns for greater cultural rights for Kurds and a peaceful solution to the Kurdish issue. It has kept to that position by never resorting to violence.” [2a] (p131)

6.244 As reported by the BBC on 13 March 2003:

“Turkey's constitutional court has banned the country's main pro-Kurdish party [HADEP] for alleged links with rebel groups... The court also banned 46 members of the party, including former chairman Murat Bozlak, from politics for five years. Hadep did not stand in last November's [2002] elections, but its candidates stood under the umbrella of the Democratic People's Party (Dehap)... Neither Hadep nor Dehap describe themselves as Kurdish parties, but both say they defend the rights of people living in the south-eastern, Kurdish-populated, part of the country. “ [66aq]

DEHAP

6.245 In a news report of November 2002 the BBC noted that Dehap was a pro-Kurdish alliance between the People's Democracy Party (Hadep), the Toil Party (Emep) and the Socialist Democracy Party (SDP). "It was formed partly to pre-empt moves by the courts to ban Hadep, which has been accused of having links to separatist Kurdish rebels of the Kurdistan Workers Party (PKK). Emep and the SDP were also too weak to run for election independently...Dehap is popular in the mainly Kurdish south-east, and urban centres with many Kurdish migrants." [66ar] The Financial Times reported in November 2002 that in the election DEHAP won (provisionally) 6.2% of votes cast at the election, and did not surmount the 10% threshold required for parliamentary representation. [41]

6.246 The pro-Kurdish newspaper the Kurdistan Observer reported on 27 March 2003 that

"The closing down of the Peoples Democracy Party (HADEP) by the Constitutional Court last week resulted only in a change of signboard. The banned party's successor, the Democratic People's Party (DEHAP) will move into HADEP's headquarters building, whose signs were taken down a while ago. Some party members have taken seriously a lawsuit filed by the High Court of Appeals Chief Prosecutor Sabih Kanadoglu to close down DEHAP have already started working to form another party to take its place. Thirty-five mayors who belong to HADEP, six of them on the provincial level, transferred their party membership to DEHAP during a ceremony held in Ankara yesterday [26 March 2003]." [50]

6.247 The USSD 2004 noted that:

The Government restricted the activities of some political parties and leaders, and sought to close the pro-Kurdish Democratic People's Party (DEHAP)... Police detained dozens of members of the legal pro-Kurdish party DEHAP on several occasions... In May, SSCs in Van and Erzurum acquitted DEHAP President Tuncer Bakirhan on charges of separatism and spreading terrorist propaganda in public speeches. The courts determined that Bakirhan's comments did not encourage violence and were within the realm of legally protected speech. In June, police detained and released DEHAP official Nedim Bicer for using the expression "sayin" ("esteemed") in reference to Abdullah Ocalan during a May press conference." [5c] (Introduction; Sections 1d & 2a)

6.248 The USSD 2004 further noted that:

"There were no new developments during the year in the legal case seeking the closure of the pro-Kurdish DEHAP on charges of separatism... During the year, police raided dozens of DEHAP offices, particularly in the southeast, and detained hundreds of DEHAP officials and members. Jandarma and police regularly harassed DEHAP members, through verbal threats, arbitrary arrests at rallies, and

detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to DEHAP. “[5c] (Section 3)

6.249 The USSD 2004 continued:

“Although security forces released most detainees within a short period, many faced trials, usually for supporting an illegal organization, inciting separatism, or for violations of the law. In January, an Erzurum prosecutor opened a case against DEHAP Chairman Tuncer Bakirhan on charges relating to a 2002 speech. A court convicted Bakirhan and sentenced him to 1 year in prison, but postponed the sentence. In February, the High Court of Appeals upheld the conviction of DEHAP Party Assembly member Abdulkерim Bingol on charges relating to a 2003 speech. Bingol began serving his 18-month prison sentence in April. In April, DEHAP official Giyasettin Torun claimed that Istanbul police kidnapped him, blindfolded him, and subjected him to threats and beatings for several hours before releasing him without charge. In June, a prosecutor in Van indicted local DEHAP Chairman Hasan Ozgunes, HRA official Zuleyha Cinarli, and 11 others on terrorism charges stemming from their participation in a press conference on the Kurdish problem and the prison conditions of jailed PKK leader Abdullah Ocalan. A court acquitted them in August. In December, a Bursa prosecutor opened a case against eight DEHAP members, including Murat Avci, head of the party branch in Bursa, in connection with slogans allegedly shouted at a DEHAP event in June. “[5c] (Section 3)

6.250 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005:

“The Head of DEHAP in the province of Diyarbakır, Mr. Celalettin Birtane, claimed that members and officials of DEHAP and its predecessor HADEP (which was banned in March 2003) had been subject to regular harassment by security officials in recent years. The scope of harassment ranged from verbal threats, arbitrary detention and arrest to different forms of criminal and judicial persecution. Even villagers whom the authorities suspected of being sympathetic to HADEP/DEHAP had been harassed by the Gendarmerie, according to Birtane. He added that many DEHAP offices had been raided and party-officials and ordinary members being detained in recent years. He claimed that this had happened both in Diyarbakır and other provinces in the Southeast.” [16] (p25)

6.251 The Norwegian report further noted:

“Mr. Birtane pointed out that the attitude of the authorities against his party had become “more relaxed” in 2004. (He made it clear that he only referred to the situation in the province of Diyarbakır and that he could not comment on the situation in other parts of South-Eastern Turkey.) He described the harassment by the authorities as less brutal

and as more subtle. Instead of raiding party-offices and detaining officials, the authorities would rather erect administrative obstacles and delay or reject permissions for public activities.” [16] (p25)

6.252 The Norwegian report continued:

“Regarding the treatment of party-members in the province of Diyarbakır, Birtane stated that neither officials nor ordinary members [of DEHAP] were prosecuted at that time (referring to 2004) only for supporting the party. However, the situation in other provinces in the Southeast and as well as in other parts of the country might be different. This last remark was confirmed by representatives of HRFT [Human Rights Foundation of Turkey], stating that the behaviour of local security forces were quite unpredictable. While the situation in Diyarbakır could be described as calm for the time being, the police in Izmir had arbitrarily detained 140 party-sympathizers, [of DEHAP] who had demanded the release of (PKK-head) Öcalan during a demonstration. Such things could happen everywhere in Turkey and the police would distinguish between party officials, affiliates or sympathizers when intervening in a demonstration.” [16] (p25-26)

6.253 The Norwegian further noted:

“While intervening in public party activities, security forces do still use force, for example in order to disperse demonstrations. Persons who are arrested on such occasions might face trials, usually for “supporting an illegal organisation”, “inciting separatism”, or for violations of the Law on Meetings and Demonstrations. The Human Rights Foundation stated that people who wish to exercise their right to express their dissent in a peaceful way still risk being harassed, beaten or facing criminal prosecution.” [16] (p25-26)

Relatives of HADEP members

6.254 The Netherlands Ministry of Foreign Affairs 2002 reported that “Relatives of HADEP members need not fear persecution by the Turkish authorities solely because one or more of their relatives is a member of HADEP. In certain cases, however, it cannot be ruled out that, for example, first or second degree relatives of HADEP members who are active at local level are closely watched by the State because of their relatives’ activities.” [2a] (p136)

Democratic Society Movement (DTH)

6.255 As reported on the website of the Office of the Prime Minister of Turkey Directorate General of Press and Information on 27 December 2004 (quoting the Turkish Daily News):

“A group of 14 activists, including four former Democracy Party (DEP) deputies Leyla Zana, Orhan Dogan, Selim Sadak and Hatip Dicle, held their first meeting in Diyarbakir this weekend to lay the groundwork to form a new political party. Dogan, reading from a 12-page manifesto outlining the new movement’s principles, said that they planned to

found a new party called the Democratic Society Movement (DTH) that would campaign for policies based up on the will of the people. Dogan said, "For now, the DHT will limit itself to voicing its opinion on Turkey's democratization and the Kurdish problem." He added that the DTH fully supported Turkey's efforts to join the European Union." [36g]

6.256 As noted in Policy Watch #940 of the Washington Institute for Near East Policy - Is the PKK Still a Threat to the United States and Turkey? dated 10 January 2005:

"Democratic Society Movement": When the Kurdish nationalist Democratic Peoples Party (DEHAP) lost stronghold cities such as Bingol, Siirt, Van, Mus, and Agri in the March 28, 2004, local elections - a sign that PKK/Kongra-Gel's appeal is in decline -- Ocalan started the process of establishing a political party. On October 23 [2004] former Turkish parliament members from the Kurdish nationalist Peoples Democracy Party (HADEP), Leyla Zana, Orhan Dogan, and Hatip Dicle, declared the formation of the Democratic Society Movement. Communications between Ocalan and them, tracked by Turkish intelligence officers, as well as Ocalan's press remarks on April 18, July 31, and October 23, reported in the Kurdish nationalist daily Özgür Politika, prove Ocalan's role in this movement. It is also relevant that there is significant overlap between the demands of Kongra-Gel and the Democratic Society Movement, including joint emphasis on "constitutional recognition to all ethnic identities including Kurdish identity." The growing prominence of the Democratic Society Movement indicates that while previously Kurdish nationalist political parties, such as HADEP and DEHAP, were secondary to the PKK, now the political party is the main body of the organization, with the military wing working for its sake." [42]

(See also Section 4 on Release of Kurdish deputies)

PKK/KADEK/Kongra-Gel and the conflict in the south-east

6.257 The Turkish commercial television channel NTV reported that on 16 April 2002 the PKK announced that it had ceased activities and had regrouped as KADEK, the Kurdistan Freedom and Democracy Congress (Kurdistan Özgürlük ve Demokrasi Kongresi). [61a] As recorded in Europa, in November 2003 the party assumed the present name of Kongra-Gel (Kurdistan's People's Congress). [1d] (p1194)

6.258 As reported by the BBC on 1 September 2003 the PKK/KADEK ended its four-year cease-fire accusing the Turkish authorities of failing to grant Kurds greater political and cultural rights. Spokeswomen for the PKK stated that she did not expect a return to all-out conflict but instead some sort of low intensity warfare. [66e]

6.259 The European Commission Regular report on Turkey's progress towards Accession, published November 2003 noted that "The state of Emergency in the two remaining provinces of Diyarbakir and Sirnak was lifted

on the 30 November 2002 putting an end to almost 15 years of emergency rule in the East and Southeast of Turkey.” [71b] (p38)

6.260 The European Commission report 2003 report continued

“The lifting of the state of emergency had a positive psychological impact in the region in spite of increased tension caused by events related to the Iraq war with the deployment of military units and concerns about possible resurgence of terrorism. Although the security situation has continued to improve in recent months, there have been several armed clashes resulting in casualties, including deaths. Checkpoints are still present in the area but controls are scarcer than in the past and the military presence less visible.” [71b] (p39)

6.261 The EC report 2003 also stated that

“As a result of the improved security, an increasing number of cultural manifestations were authorised and took place with high levels of participation. Of particular significance was the celebration of the Diyarbakir, Hakkari and Tunceli festivals. In a few cases, however, events were banned and incidents with security forces occurred. There are still reports of violation of fundamental freedoms although these are more limited in scope.” [71b] (p39)

6.262 On 29 May 2004 the BBC reported that Kongra-Gel declared that its five-year unilateral cease-fire will end in three days time (on the 1 June 2004) and that it will start to target Turkish security forces. However, according to the BBC it is difficult to know how seriously to take the threat of renewed military action by Kongra-Gel as deep divisions have been reported within the organisation. It is believed that a sizeable faction wants to renounce the armed struggle once and for all. [66z]

6.263 In an article dated 1 September 2004 the Guardian reported that

“Two Turks and 11 Kurds have been killed in three days' of fighting between the army and the Kurdistan Workers party or PKK, now known as Kongra-Gel, in Hakkari province on the Turkish border with Iraq. A Turkish official said yesterday that more than 1,000 troops took part in the offensive.... More than 20 soldiers or policemen have been killed since June 1 [2004], when the rebels called off a ceasefire declared in 1999 after the capture of their leader, Abdullah Ocalan.” [38d]

6.264 According to the European Commission 2004 “Overall the situation in the East and Southeast of the country, where people of Kurdish origin mostly live, has continued to improve gradually since 1999, both in terms of security and the enjoyment of fundamental freedoms. The emergency rule has been lifted and the return of the internally displaced persons (IDPs) has continued. Nevertheless, the situation of IDPs remains critical.” [71c] (p50)

6.265 The EC report 2004 continued “Despite a general improvement in the situation in the Southeast, the security threat has increased since the Kongra-Gel (formerly PKK) announced the end of the ceasefire in June 2004. Terrorist activities and clashes between Kongra-Gel militants and the Turkish military have been reported.” [71c] (p50)

6.266 On 8 November 2004 the BBC reported that a Dutch court had blocked the extradition to Turkey of a Kurdish woman said to be a militant leader. “Nuriye Kesbir, alleged to belong to the separatist Kurdistan Workers Party (PKK), is accused of organising attacks on military targets in the 1990s. The Dutch justice ministry approved her handover in September after the supreme court ruled she could be extradited. But a court in The Hague has said the Netherlands could not be sure she would receive a fair trial in Turkey. “ [66as]

6.267 On 21 November 2005 the BBC reported that a Dutch appeals court had ruled that Nuriye Kesbir could not be extradited to Turkey. The three appeals court judges who supported the earlier ruling were reported as saying: “The court is of the opinion that Kesbir, as a woman and as a prominent member of the PKK, has a heightened risk of being tortured during her detention in Turkey,” they said in a statement. “The court recognises that the Turkish government has recently made important improvements in the area of human rights, but... there is a difference between what the government wants and what happens at a lower level, at prisons and police stations.” [66as]

6.268 On 11 January 2005 the Turkish Daily News reported that, according to a report released by the Diyarbakir Human Rights Associations, the number of armed conflict between security forces and the Kurdistan’s Workers Party (PKK/Kongra-Gel) increased. While in 104 people died and 31 were wounded in armed clashes in 2003, 219 people died and 126 were wounded in 2004. [23q]

6.269 The USSD 2004 reported that “The Government, as well as the PKK/KADEK/KHK, continued to commit human rights abuses against non-combatants in the southeast. According to the military, 18 civilians, 62 members of the security forces, and 79 terrorists died during the year [2004] as a result of armed clashes.” [5c] (Section 1a)

6.270 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005:

“Mr. Birtane [the head of DEHAP in the province of Diyarbakır], claimed that the government was responsible for the increased tensions and hostilities, which have been observed since the summer of 2004... In this connection, Mr. Birtane mentioned that the Gendarmerie recently (October 2004) had burned down a forest in the province of Tunceli, which seems to be a focal point for PKK/Kongra-Gel-attacks on security forces (and vice-versa)... According to diplomatic sources in Ankara the conflict has escalated again since the summer 2004 – after having been at a relatively low intensity in 2002 and 2003. Without giving detailed numbers, they stated that many

militant Kurdish activists had been killed by security forces since the end of the truce. Several incidents – e.g. the burning of a forest in Tunceli – indicate that the security forces are determined to take a harder stance in the conflict... Despite the increase in hostilities and human rights abuses since the summer of 2004, nobody I talked to expected a return to all-out conflict, but rather to a low-intensity warfare.” [16] (p14-15)

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Internally displaced people (IDPs) and the return to villages programme

6.271 The USSD 2004 noted that:

“Various NGOs estimated that there were from 1 to 3 million IDPs remaining from PKK conflict, which reached its height between 1984 and 1990. The Government reported that 378,000 residents "migrated" from the southeast during the conflict, with many others departing before the fighting. In July, Parliament adopted a law allowing persons who suffered material losses during the conflict with the PKK to apply for compensation. Under the law, IDPs who fled the region are eligible for cash or in-kind payment for losses caused by terrorism or by the State's antiterror operations. However, the Foundation for Society and Legal Studies and a number of international organizations criticized the law because some villagers who fled the region, particularly those who fled the country, would have difficulty meeting the 1-year deadline for applying for payment and because villagers who received token amounts of compensation in the past would be ineligible for benefits. Residents of the southeast and representatives of regional bar associations also said the law established unreasonable documentation requirements and awarded levels of compensation far below standards established by the ECHR.” [5c] (Section 2d)

6.272 The USSD 2004 continued:

“According to human rights activists, villagers, and some southeast members of Parliament, the Government did not allow some displaced villagers to return to the southeast unless they signed a document stating that they had left their homes due to PKK terrorism, rather than government actions, and that they would not seek government assistance in returning. Village guards occupied homes abandoned by IDPs and have attacked or intimidated IDPs attempting to return to their homes with official permission. Voluntary and assisted resettlements were ongoing. In some cases, persons could return to their old homes; in other cases, centralized villages have been constructed. The Government claimed that a total of 127,927 displaced persons had returned to the region as of November and that it had assisted in the reopening of more than 400 villages and hamlets.” [5c] (Section 2d)

6.273 As outlined in the Human Rights Watch (HRW) World Report 2005 published in January 2005:

“The government has once again failed to established an effective framework for the return of the hundreds of thousands of Kurds forcibly displaced from the southeast during the early 1990s...More than a quarter of a million villagers, mainly Kurdish, remain unable to return to their homes in the southeast, after having been forced out of their homes by security forces in brutal operations accompanied by torture and “disappearance” during the conflict between security forces and the PKK during the 1990s. In most cases, communities were forcibly evacuated if they refused to join the paramilitary “village guards,” a brutal and corrupt force that was armed and paid by the government to fight the PKK.” [9e] (p1-2)

6.274 The HRW report continued:

“Government projects for return did not provide the displaced with adequate resources to re-establish their lives in their former homes or establish conditions which would enable them to return in safety. Those villagers who attempted to return were in some cases turned back by local gendarmes because they refused to join the village guards, or were at risk of attack by village guards. In September a village guard allegedly shot and killed Mustafa Koyun and wounded Mehmet Kaya in the village of Tellikaya of Diyarbakir. The villagers who were attacked had been forced to leave Tellikaya in the early 1990s after they refused to join the village guard.” [9e] (p2-3)

6.275 The European Commission 2004 reported that “According to official sources, since January 2003, 124,218 IDPs (approximately one third of the official total of 350,000) have returned to their villages. NGOs suggest that the number of displaced persons is much greater than official statistics indicate (the total number is estimated at 3 million).” [71c] (p51)

6.276 The European Commission 2004 also reported that

“The situation of internally displaced persons (IDPs) is still critical, with many living in precarious conditions. Turkey began a dialogue with international organisations in view of addressing the weaknesses of the ‘Return to Village and Rehabilitation Programme’ which were highlighted by the UN Secretary General’s Special Representative for Displaced Persons following his visit to Turkey in 2002. The Turkish government is preparing a survey as a first step in following up on these recommendations.” [71c] (p50)

6.277 The European Commission 2004 continued

“A Law on Compensation of Losses Resulting from Terrorist Acts was adopted in July 2004. This represents recognition of the need to compensate those in the Southeast who have suffered material

damages since the beginning of the Emergency Rule period (19 July 1987). Although the criteria on which applications will be accepted and assessed may allow for the possibility of restricting considerably the scope of the law, provision is made for judicial recourse. [71c] (p50)

6.278 In September 2004, The Human Rights Foundation website reported:

"The village guards that had settled in Sariköy village left the village in September [2004] since the inhabitants of the Syriac faith wanted to return. On 13 September "Milliyet" reported: "In August [2004] the villagers approached the governor asking to return to their villages. Sirnak Governor Osman Günes went to the village three times and asked the village guards to leave. On 11 September soldiers took the arms of the village guards and held the head village guard Mehmet Ali Bulut and 10 men at the gendarmerie station. The village guards were later resettled in Yaylalar village, where they had been living before." On 24 September the village was handed over to the Syriacs." [83b]

6.279 On 17 September the Zinda Magazine website reported that:

"After years of occupation by Kurdish village guards, the Governor of Sirnak peacefully evacuated the Assyrian village Sare /Sarikoey on Sunday September 12, 2004. Human Right organizations (among them Sign of Hope and Society for Threatened People) welcomed this development as a positive step in context of Turkey's effort to join the European Union. About 30 families were living until 1994 in Sare; forced by the terror during the fights of the Turkish Military against the PKK they abandoned the village. The village guards took it over and used it as "small garrison" against the PKK." [49]

6.280 In January 2004 the Guardian reported that "Ankara's moderate Islamic government has proposed plans to compensate those who suffered at the hands of the security forces during the campaign to defeat the separatist Kurdish Workers Party, PKK....The law provides compensation for people who have suffered 'both from acts of terrorist organisations and from measures taken by the state in the struggle against terror.'" [38c] (p1)

6.281 According to the UNHCR on the 6 January 2004 15 Turkish refugees returned to Turkey from camps in Northern Iraq. The UNHCR noted that "This latest movement brings the total number of Turkish refugees to return from Iraq with UNHCR help to 2,241 people since 1998." [28a]

6.282 On the 23 January 2004 the UNHCR announced that Iraqi, Turkish and UNHCR officials agreed the modalities of the voluntary return to Turkey from Iraq of up to 13,000 Turkish citizens (ethnic Kurds) who have lived in exile in Iraq since the early 1990s. The UNHCR reported that

"Under the agreement reached at the Turkish capital, Ankara, the Iraqi authorities will ensure that the return is voluntary and that the refugees are not subjected to pressure. The accord stipulates that the UNHCR will have full and unhindered access to the refugees both on Iraq

territory and once they have gone back to Turkey. The Turkish authorities are to ensure that the refugees who volunteer to go back to Turkey are free to return [to] their former places of residence or any other place of their choice within Turkey.” [28b]

6.283 The U.S. Committee for Refugees World survey published June 2003 reports that

“Returns of displaced people during the year [2002] were minimal and sporadic. Some 37,000 persons have returned to 460 villages or pastures since 2000 as part of the governments Back to Villages and Rehabilitation Project. However, the Turkish government imposed political loyalty tests, compelling some returnees to sign forms stating they were displaced due to terrorism and forcing others to join the Village Guards, the group responsible for causing many to flee their homes in the first place. Many Kurds still fear to return to their villages until the village guards are abolished... Village guards shot and killed three returning villagers in Nurettin village in July 2002, and two returning villagers and one child in Ugrak, Diyarbakir, in September [2002]”. [68] (p1)

Newroz / Nevruz celebrations

6.284 As outlined by the Netherlands Ministry of Foreign Affairs report 2002 Newroz (or in Turkish Nevruz) is the New Year celebrated by Kurds, Persians and in Central Asia on the 21 March. [2a] (p87)

6.285 The USSD 2004 noted that:

“On March 21, most celebrations of Nevruz, the Kurdish New Year, took place without incident, according to the HRF; however, the HRF reported that police beat celebrants at a number of locations. In Agri Province, authorities refused to allow celebrations because the application featured the Kurdish spelling “Newruz,” including the letter “w,” which is not found in Turkish.” [5c] (Section 2b)

6.286 The European Commission 2004 stated that “There has been a greater tolerance towards the use of the Kurdish language and the expression of Kurdish culture in its different forms. The Newroz celebrations [March 2004] (marking the beginning of the spring) were authorised and only minor incidents were reported.” [71c] (p49)

Arabs

6.287 According to World Dictionary of Minorities (1997) “There are probably about one million Arabs in the provinces of Urfa, Mardin, Siirt and Hatay (Alexandretta). Unlike the Turkish Sunni Majority Sunni Arabs belong to the Shaf’i tradition (which they share in common with most Sunni Kurds). They are denied the opportunity to use their language except in private, and the use of Arabic is forbidden in schools.” [57a] (p382)

6.288 The World Dictionary of Minorities continued “About 200,000 Alawi, or Nusayri Arabs live in the northern most settlements of the larger Alawite

community in Syria. They are a distinct religious community from Alevis but have in common reverence for Ali, the prophet's son-in-law, as an emanation of the divinity. Alawites have an uneasy relationship with Sunnis, but are more comfortable with Christians." [57a] (p382)

6.289 The World Dictionary also stated that "There are still about 10,000 Orthodox and Melkite (uniate with Rome) Christians (or, as they call themselves, Nasrani) in the Hatay....They feel under pressure, like other Arabs, to 'Turkicize'." [57a] (p382)

Caucasians

6.290 The World Dictionary of Minorities (1997) estimate that there are probably about one million people of Circassians or Abkha descent in Sakariya, Bolu, Bursa, Eskisehir, Sinop, Samsum, Tokat and Kayeri. There are also about 80,000 Sunni Georgians and 10,000 Orthodox Christian Georgians located mainly in the Artvin province in the north east and around 150,000 Laz (a south Caucasian language related to Georgian) speakers in Turkey. [57a] (p382-383)

Armenians

6.291 The World Dictionary of Minorities (1997) reports that "There are about 30,000 Armenians [in Turkey], primarily in Istanbul... Although the State respects their minority status, they are regarded as foreigners by most Turks even though they have inhabited the land of modern Turkey for well over 2,000 years, substantially longer than the Turks. Armenians still find it hard to register their children as Armenian. However, the community successfully operates its own schools, old peoples' homes and its own press." [57a] (p380)

Greeks

6.292 The USSD Report on International Religious Freedom 2004 estimates that there are between 3,000 Greek Orthodox Christians in Turkey. [5b] (p1) The World Dictionary of Minorities (1997) state that "There are probably 3,000 ageing Greek Christians, mainly in Istanbul, the residue of 80,00 still there in 1963. Formal expulsions police harassment and a climate of fear and popular animosity have since then reduced the community to its present number." [57a] (p381)

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Women

6.293 The USSD 2004 stated that:

"The Constitution regards all citizens as equal and prohibits discrimination on ethnic or racial grounds; however, societal and official violence and discrimination against women and minorities remained problems. In May, Parliament amended the Constitution to specify that men and women have equal rights and that it is the duty of the State to ensure that this protection is put into practice. Before the amendment, the Constitution only stated broadly that all individuals were equal before the law." [5c] (Section 5)

6.294 The USSD 2004 continued:

“Violence against women remained a chronic problem, and spousal abuse was serious and widespread. The law prohibits spousal abuse; however, complaints of beatings, threats, economic pressure, and sexual violence continued. Beating in the home was one of the most frequent forms of violence against women... The law provides that victims of spousal violence may apply directly to a judge for assistance and authorizes judges to warn abusive spouses and order them to stay away from the household for 6 months. Judges may order further punishments for those who violate such orders. According to women's rights advocates, authorities enforced the law effectively, although outside of major urban areas few spouses sought assistance under the law. ” [5c] (Section 5)

6.295 The USSD 2004 further stated that:

“The law prohibits rape, including spousal rape; however, laws and ingrained societal notions made it difficult to prosecute sexual assault or rape cases. Women's rights advocates believed cases of rape were underreported. In September, Parliament adopted a new Penal Code that considers rape a crime against the individual, rather than a crime against society. The Code eliminates several rape-related laws that women's rights advocates criticized as discriminatory, including a measure that allowed rapists to escape punishment by marrying their victims and another that linked punishment for rape to the victim's marital status or virginity.” [5c] (Section 5)

6.296 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ made public in February 2005:

“According to Ms. Nebahat Akkoç and the other women's rights activists consulted, violence against women is endemic all over Turkey and not limited to “backward” parts such as Eastern Anatolia. It appears, however, that the problem is especially grave in traditional areas, where tribal customs still play an important role in every day life. Ms. Zülal Erdogan and Ms. Remziye Tanrıku from the Diyarbakır Bar Association supported this view and pointed out that there are more cases in conservative, Kurdish families in the Southeast and among migrants from the Southeast living on the outskirts of the metropolitan areas.” [16] (p32)

6.297 The Norwegian report continued:

“All sources consulted on the issue considered the recent changes in both the Civil Code 19 and in the Penal Code to be crucial steps in the campaign to further equality between women and men and to eliminate the use of violence against women. Among other regulations, Article 159 of the Civil Code (stating that women needed their husbands’

consent to work outside the home) and Article 438 of the Criminal Code (providing for a reduction in the punishment for rapists under certain conditions) have both been abolished.” [16] (p32)

6.298 Amnesty International's report 'No turning back – full implementation of women's human rights now! 10 year review and appraisal of the Beijing Declaration and Platform for Action' published in February 2005 stated that:

“At every level of the criminal justice system in Turkey, the authorities fail to respond promptly or rigorously to women's complaints of rape, sexual assault or other violence within the family.(29) The police are reluctant to prevent and investigate family violence, including the violent deaths of women. The police force's own record of human rights violations makes victims of domestic violence reluctant to seek their help. Prosecutors refuse to open investigations into cases involving domestic violence or to order protective measures for women at risk from their family or community. The police and the courts do not ensure that men, who are served with court orders, including protection orders, comply with them. In most cases the authorities fail to ensure that the perpetrators of violence in the home are brought to justice in accordance with international standards for fair trial.” [12q] (p4)

6.299 Amnesty International report continued:

“There are many barriers facing women in Turkey who seek access to justice and protection from violence. Police officers often believe that their duty is to encourage women to return home and "make peace" and fail to investigate the women's complaints. Many women, particularly in rural areas, are unable to make formal complaints, because leaving their neighbourhoods subjects them to intense scrutiny, criticism and, in some cases, violence. Women in Kurdish and Arabic speaking areas of the country may not be able to communicate well in Turkish, and may fear further violence at the hands of the police or security forces. NGOs in Turkey cited a severe shortage of government-run shelters and support services currently available: approximately 14 "guesthouses" and 19 community-based services to support women living with violence at home. AI is further concerned that the authorities are failing to ensure that women who have experienced violence have access to the full range of rights for reparation, including compensation for the criminal injuries they receive, rehabilitation, remedy and reparation.” [12q] (p4)

6.300 The thirty-second session of the Committee on the Elimination of Discrimination against Women) (CEDAW) in its concluding comments on Turkey dated 28 January 2005 stated:

“The Committee is concerned about the persistence of violence against women, including domestic violence. It is concerned that women victims of violence are unaware of their rights and the protection mechanism available to them under the law. The Committee is furthermore concerned that support services for women victims of

violence, including shelters, are inadequate in number. It is also concerned that, under the recently enacted Law on Municipalities, the responsibility for establishing shelter has been delegated to municipalities without adequate mechanism to monitor its implementation and ensure financing.” [81] (p5)

6.301 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, published in December 2004 noted that “Women’s rights in Turkey are not fully realized in the cities and are observed even less in rural districts. Although constitutional amendments in the spring of 2004 included a provision granting women full equality before the law, building on earlier changes in the civil and penal codes, progress has not been significant.” [62c] (p6)

6.302 However, Kirsty Hughes in her paper of December 2004 noted that “Major legislative improvements and changes have been made in women’s rights and gender equality, in particular through the extensive revision of the penal code.” [77] (p8-9)

6.303 The European Commission 2004 reported that

“With respect to gender equality, a number of reforms have strengthened the principle of equality between men and women. Article 10 of the Constitution now includes the provision that men and women shall have equal rights and that the state has the duty to ensure that this equality is put into practice. The new Penal Code is generally progressive in terms of women’s rights, addressing such crimes as ‘honour killings’, sexual assault and virginity testing. Despite legal and practical initiatives to tackle the problem of discrimination and domestic violence this remains a major problem. [71c] (p45)

6.304 The EC report 2004 also reported that “Many women are subjected to various forms of physical and psychological violence within the family. These include sexual abuse, forced and often early marriages, unofficial religious marriages, polygamy, trafficking and ‘honour killings’. Violence against women perpetrated by security officials during detention is reportedly diminishing.” [71c] (p45)

6.305 The EC report 2004 further stated that “There is an increased awareness of violence against women and some pressure is being exerted to oppose it.” [71c] (p45)

6.306 The report of the Independent Commission on Turkey ‘Turkey in Europe: More than a promise?’ dated 6 September 2004, outlined that:

“There is no denying that in parts of Turkish society, traditional practices abusive to women and girls continue. They include domestic violence, “crimes of honour”, arranged marriages and inadequate schooling for girls, resulting in female illiteracy and the exclusion of women from jobs and healthcare. As the Co-Rapporteurs of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe indicated in their report earlier

this year, there appears to be a great divide between modern and traditional Turkey and between West and East as far as women's rights are concerned. Nearly 95% of the crimes of honour recorded are committed in eastern and south-eastern Turkey, where the suicide rate among women – apparently imposed as an alternative to murder by a family member or to escape a forced marriage – is twice as high as elsewhere. Certainly, this situation is intolerable in a modern state and cannot be justified by social and cultural traditions or a region's lack of economic development.” [75] (p27)

6.307 Amnesty International's report 'Turkey: Women and confronting family violence' published in June 2004 stated that

“As in countries throughout the world, the human rights of hundreds of thousands of women in Turkey are violated daily. At least a third and up to a half of all women in the country are estimated to be victims of physical violence within their families. They are hit, raped, and in some cases even killed or forced to commit suicide. Young girls are bartered and forced into early marriage....Violence against women is widely tolerated and even endorsed by community leaders and at the highest levels of the government and judiciary. The authorities rarely carry out thorough investigations into women's complaints about violent attacks or murders or apparent suicides of women. Courts still reduce the sentences of rapists if they promise to marry their victim, despite recent moves to end the practice.” [12] (p1)

6.308 Amnesty International's report 'From Paper to Practice; making change real' (February 2004) reports that

“The extent of violence perpetrated by men against family members is a serious concern. Estimates range from an approximate 30 to 58 per cent of women who experience physical violence, to 70-97 per cent of women experiencing a wider range of abuse. This epidemic of violence which affects all women and children who live with violent men - resulting in some cases in permanent disability and even death - appears to be condoned by the authorities and society in many situations. Family violence often occurs in public. The perpetrators are rarely brought to justice.” [12d] (p8)

Honour killings

6.309 As noted in the USSD 2004:

“Honor killings--the killing by immediate family members of women suspected of being unchaste--continued in rural areas and among new immigrants to cities. Women's advocacy groups reported that there were dozens of such killings every year, mainly in conservative Kurdish families in the southeast or among migrants from the southeast living in large cities. In September, Parliament adopted a law under which murders committed with a motive related to "moral killing" are considered aggravated homicides, requiring a life sentence. The law is

designed to discourage the practice of issuing reduced sentences in honor killing cases; however, some human rights advocates argued that the wording of the law is not explicit enough to prevent judges from viewing the honor killing tradition as a mitigating factor for sentencing. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing.” [5c] (Section 5)

6.310 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey noted that:

“Like other forms of violence against women, honour killings happen in all parts of the country. They appear to be more frequent in the Black-Sea Region and in Kurdish inhabited areas in the Southeast, where tribal customs play an important role in everyday life. From the sunni-dominated areas of central-Anatolia (such as Konya) however, fewer cases are reported...Just like other kinds of violence within the family, no comprehensive recording or statistical monitoring is conducted as to the prevalence of honour killings. Most of the NGO’s representatives I talked to, estimated that the number of unreported or undetected cases was significantly higher than the official numbers. Honour killings are often hushed up and some women who have apparently committed suicide have in fact been killed or even forced to kill themselves by their family. ” [16] (p33-34)

6.311 As outlined by Kirsty Hughes in a paper dated December 2004:

“Violence against women in Turkey is one of the most serious problems facing Turkey in its attempts to show it is tackling basic human rights. So-called ‘honour’ crimes against women are only one particularly striking part of a range of violent crimes and attacks that need to be tackled not only by legal changes but also by major attempts to change cultural attitudes.” [77] (p22)

6.312 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, noted that: “In February 2004, the government instructed prayer leaders to state that honor killings are a sin against God, and the 2004 revisions to the penal code included an end to sentence reductions for these crimes, among other provisions to improve women’s rights. [62c] (p7)

6.313 The European Commission 2004 reported that

“The new Penal Code envisages life imprisonment for crimes against life that are motivated by ‘tradition and customs’ and it is foreseen that this provision will be applied in cases of so-called ‘honour killings’. Sexual assault within marriage can lead to legal investigation and prosecution if the victim lodges a complaint. The code foresees slight increases in prison sentences for polygamy and non-registration of religious marriages.” [71c] (p45)

6.314 The EC report 2004 continued

“In March 2004 a judge sentenced the perpetrator of an ‘honour killing’ in Sanilurfa to life imprisonment and implicated family members were given long prison sentences. In February 2004, the Diyanet instructed imams and preachers to speak out against ‘honour killings’ during the Friday prayers. This followed a previous Diyanet instruction in January 2004 to no longer conduct unofficial religious marriages without a prior civil marriage.” [71c] (p45)

6.315 Amnesty International’s report of June 2004 reported two of cases of those found guilty of honour crimes being sentenced to life imprisonment. According to the report “These cases have shown the positive steps that have been taken and the efforts being made within the Turkish judicial system to treat ‘honour killings’ as seriously as other murders.... However, although some courts appear to have begun implementing the reforms, the discretion accorded to the courts continues to permit the perpetrators of domestic violence unwarranted leniency.” [12j] (p17)

6.316 In February 2004 the BBC reported that “A Turkish women had been murdered in an Istanbul hospital where she was already being treated for injuries sustained in a so-called honour attack. Guldunya Toren 24, was being treated after being shot and left for dead, when the second attack happened.” Early on the morning of the 26 February 2004 a man claiming to be a relative told staff he wanted to visit her, before shooting her dead.” [66s] The BBC reported in March 2004 that in response to the killing Muslim clerics across Turkey were told by the government to deliver sermons upholding women’s rights and condemning so called honour killings. [66t]

Virginity testing

6.317 The USSD 2002 reported that

“According to HRF [Human Rights Foundation of Turkey], there were fewer reports of ‘virginity testing’ than in past years, and no reports of the practice among family members; regulations banning the practice unless requested by the women were generally enforced. In February [2002] the government abolished a regulation allowing the practice to be used on nursing school students. However, the Women’s Commission of Diyarbakir Bar Association released a study indicating that 99 percent of female detainees in five southeastern provinces were subjected to the practice.” [5a] (p27)

6.318 The USSD 2003 reported that “Unlike in previous years, HRF recorded no reports of forced ‘virginity testing’.” [5d] (p24)

6.319 The Council of Europe Commissioner for Human Rights report published December 2003 stated that

“In January 1999 the Minister of Justice published a decree prohibiting subjecting women in custody to virginity tests without their express consent. The decree stipulates that such tests may only be used to

confirm suspicions of sexual assault, sexual acts committed on minors and prostitution. Only a judge can order such an examination without the women's consent and then only if it is the sole means of gathering evidence that an offence has been committed." [21] (p29)

6.320 However, in the above report the Commissioner also reported that the situation of women in police custody is a subject of serious concern and one of the problems frequently reported include the virginity testing of female detainees. [21] (p29)

6.321 The European Commission 2004 reported that "As regards virginity testing, the new [Penal] Code foresees a prison sentence for those ordering and conducting such tests in the absence of a court order. However, contrary to the request of women's NGOs, the consent of the woman on whom the test is to be conducted is still not required." [71c] (p45)

6.322 The Norwegian Country of Origin Information Centre 'Report of fact-finding mission to Turkey noted that under the new Penal Code, virginity testing will be prohibited unless formally authorised by a judge or a prosecutor. "Some women's activists, however, were critical of the fact that virginity testing still could be conducted without the consent of the woman." [16] (p32)

Employment/Gender equality

6.323 The USSD 2004 considered that:

"Women continued to face discrimination in employment to varying degrees and were generally underrepresented in managerial level positions as well as in government. Women generally received equal pay for equal work in professional, business, and civil service positions, although a large percentage of women employed in agriculture and in the trade, restaurant, and hotel sectors worked as unpaid family labor... The Directorate General on the Status and Problems of Women, under the State Minister for Women's and Children's Affairs, is responsible for promoting equal rights and raising awareness of discrimination against women. In October, Parliament adopted legislation that allows the Directorate General to expand its limited staff." [5c] (Section 5)

6.324 The USSD 2004 continued:

"Independent women's groups and women's rights associations existed but have not significantly increased their numbers or activities, mostly due to funding problems. There were many women's committees affiliated with local bar associations. Other organizations included the Association for Supporting and Training Women Candidates (Ka-Der), Flying Broom, the Turkish Women's Union, the Association for Researching and Examining Women's Social Life, and the Foundation for the Evaluation of Women's Labor." [5c] (Section 5)

6.325 In her paper of December 2004 Kirsty Hughes outlined that:

“Women’s NGOs are a particularly strong element of Turkey’s growing set of civil society organisations. Their grassroots and political activity across the country represent a vital dynamic in the political and social struggle to improve women’s rights, and the genuine respect of those rights in Turkey... Women’s NGOs have mostly strongly welcomed the EU goal and the impact of EU political demands, together with the future impact of adopting EU social legislation including gender equality laws. But they also emphasise their own long-running activities in pushing for legal, social and political change.” [77] (p21)

6.326 Kirsty Hughes’ paper continued:

“The situation of women in contemporary Turkey is rather diverse, with class, education, religion, ethnicity and urban/rural background all impacting on women’s social, economic and political situation. While the overall women’s employment rate is strikingly low (at 25% compared to an EU average of 55 %), female employment in many of the professions – from law to academia to medicine – is relatively high. But politics is a particular and major black spot, with women accounting for only 4% of national MPs, and for a tiny proportion of mayors in local government (under 1% – 25 out of 3234 mayors).” [77] (p21)

6.327 The USSD 2003 considered that “Particularly in urban areas women are well represented at all levels in the professions, business, and the civil service, and constituted more than one-third of university students.” [5d] (p24)

6.328 According to the European Commission 2004 “A circular was issued in January 2004 by the Office of the Prime Minister with a view to ensuring gender equality when recruiting for the public services. Limited progress was made on the adoption of legislation aimed at guaranteeing the effective prohibition of discrimination in employment.” [71c] (p45)

6.329 According to the Turkish Daily News (December 2003) Ka-Der has called on political parties to include more women candidates on their lists for upcoming elections. At present the ratio of female deputies in Parliament is 4.4 percent while only a few women have any say in local administrations. [23g] As recorded in Europa Regional Surveys of the World ‘The Middle East and North Africa 2005 Tansu Ciller was elected as the Chairman of the DYP political party in April 1993 and became first female Prime Minister of Turkey in June 1993. [1d] (p1164)

6.330 See Section 6.B on Headscarves

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Children

6.331 The European Commission 2004 reported that “With respect to children’s rights, despite accession to the ILO Convention on the Elimination of Worst Forms of Child Labour and amendments to the legislation in this

area, child labour is still a significant problem. The right to education of children, in particular girls, is not respected and the issue of street children remains serious in some regions.” [71c] (p46)

6.332 The USSD 2004 reported that “The Government was committed to furthering children's welfare and worked to expand opportunities in education and health, including a further reduction in the infant mortality rate. The Minister for Women's and Children's Affairs oversaw implementation of official programs for children. The Children's Rights Monitoring and Assessment High Council focused on children's rights issues.” [5c] (Section 5)

6.333 The USSD 2004 continued:

“Government-provided education through age 14 or the eighth grade is compulsory. Traditional family values in rural areas placed a greater emphasis on education for sons than for daughters. According to the Ministry of Education, 95.7 percent of girls and 100 percent of boys in the country attended primary school; however, a UNICEF report released during the year indicated that, in the rural areas of some provinces, over 50 percent of girls between 7 and 13 and over 60 percent of girls between 11 and 15 did not attend school.” [5c] (Section 5)

6.334 The USSD 2004 also reported that:

“Gaps in social security and health insurance programs left approximately 20 percent of families and their children without coverage. Persons not covered by insurance may use a special program to access public health care. Immunization rates in some eastern and southeastern provinces lagged behind the rest of the country. According to UNICEF, the infant mortality rate dropped to 29 per 1,000 in 2003.” [5c] (Section 5)

6.335 The USSD 2004 also noted that “Child abuse was a problem. There were a significant number of honor killings of girls by immediate family members, sometimes by juvenile male relatives...In September, Parliament eliminated an article of the Penal Code under which a mother who killed an illegitimate child to protect family honor could receive a reduced sentence.” [5c] (Section 5)

6.336 As noted in the USSD 2004:

“The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than 8 hours a day. At 15, children may engage in light work provided they remain in school. The Constitution provides that no person shall be required to perform work unsuitable for their age, gender, or capabilities, and the Government prohibited children from working at night or in areas such as underground mining. The law prohibits children attending school from working more than 2 hours per day or 10 hours per week.” [5c] (Section 6d)

6.337 However, the USSD continued:

“Child labor was widespread. The State Statistical Institute reported that the number of child laborers between the ages of 12 and 17 dropped from 948,000 in 2003 to 764,000 during the year; however, some observers claimed that the actual number of working children was rising...According to the Labor Ministry, 65 percent of child labor occurred in the agricultural sector. However, some observers maintained that the bulk of child labor had shifted to urban areas as rural families migrated to cities. Many children worked in areas not covered by labor laws, such as agricultural workplaces with fewer than 50 workers or the informal economy. According to the Labor Ministry, the Government allocated \$15 million (20.3 trillion lira) for programs to eliminate child labor during the year.” [5c] (Section 6d)

6.338 The European Commission 2003 reported that “Under the seventh reform package an amendment has been made to Article 6 of the law on the Establishment, Duties and Trial Procedures of Juvenile Courts, raising from 15 to 18 the age below which young people must be tried in Juvenile Courts.” [71b] (p36)

Child Care Arrangements

6.339 The Netherlands Ministry of Foreign Affairs 2002 reported that “Children whose parents for whatever reason are unable to exercise custody are usually looked after by the family.” However, if the relatives are unable to do this, the Netherlands report stated that

“Turkish law (Law No. 2828 of 24 May 1983, on the Social Services and Child Protection Agency) provides for state care for unsupported minors. Only if care is not possible elsewhere may the case be referred to the Social Services and Child Protection Agency (Sosyal Hizmetler ve Çocuk Esirgeme Kurumu) coming under the Ministry of General Affairs. The Agency refers the minor's case to the court, which takes the ultimate decision on care.” [2a] (p152-153)

6.340 The report continued

“Under Turkish law, depending on the length of their education unsupported minors can be taken into care at least up to the age of 18 and at most up to the age of 25. Children up to the age of 18 may register or be registered with the Social Services Directorate (Sosyal Hizmetler Müdürlüğü), to be found in every province. There are children's homes (Çocuk Yuvaları) for children up to the age of 12 and training institutions (Yetistirme Yurtları) for children aged 12-18. There are currently an estimated 70 children's homes in Turkey with a total of roughly 7,000 children, and 91 training institutions with 5,000 young adults. In some cases young adults who do not have their own home on reaching the age of 18 may be allowed to stay longer.” [2a] (p153)

6.341 In addition the Netherlands report 2002 also stated that

“The quality of care in homes varies from province to province. In some parts of the country there are fewer facilities for the placement of minors than in others. There are examples of provinces in which personal intervention by the governor has led to an acceptable or even good care system (in Kayseri, for instance), while in other provinces care can only be described as minimal. It is difficult to judge how far care in general is adequate by Turkish standards since levels of care vary so much. Turkish authorities responsible for care and assistance to unsupported minors often have to cope with a lack of funding.” [2a] (p153)

6.342 The report continued “According to law, care and assistance to unsupported minors are provided by the state, but various charitable organisations also provide care for minors. The Social Services Directorates are responsible for authorising the establishment of and monitoring such institutions. The Directorates regularly consult such organisations in order to streamline care. UNICEF and other international organisations are also active to some extent in the field of care for unsupported minors.” [2a] (p154)

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Homosexuals

6.343 As outlined by the international Lesbian and Gay Association (ILGA) (website accessed 17 February 2005) homosexuality for both Gays and Lesbians is legal in Turkey and the age of consent is 18. The ‘Lambda Istanbul’ which is a ‘liberation’ group for gay, lesbian, bisexual and transgender people in Turkey states that “There are no articles on homosexuality in the law but vague references to public morals and public order. The police has the legal right to take anyone who looks suspicious to the police station for interrogation.” [27a] (p1-2)

6.344 The website of Lambda Istanbul (accessed in February 2005) states that “Lambda, Istanbul is the largest queer [Homosexual] liberation group in Turkey. It was formed by a small number of gays and lesbians as a result of a police ban on Christopher Street Day celebrations in 1993. Since then, Lambda, Istanbul has grown in membership and aims to raise its voice on behalf of the gay communities in Istanbul.” [33] (p1)

6.345 On 14 October 2004 the website of the International Lesbian and Gay Association reported (quoting Agence France-Presse) that:

“The homosexual movement in Turkey is still in its fledgling stages, but gays and lesbians are increasingly becoming outspoken. They are expanding their networks, organizing conferences and film festivals and taking part in May Day marches. KAOS GL's Umut Guner believes Turkey's drive to improve human rights in line with EU standards is also forcing officials, albeit slowly, to overcome prejudices against homosexuals. Some time ago, he says proudly, government agencies invited KAOS GL alongside other civic groups to work in commissions

on health care and AIDS prevention. In a milestone move earlier this year, gay and lesbian activists were for the first time received in the Turkish parliament to convey their appeals for legal protection... For Kursad Kahramanoglu, the Turkish co-head of the International Lesbian and Gay Association (ILGA), Turkey is far ahead of other Muslim nations when it comes to tolerance for homosexuals. Most Muslim countries punish homosexuality, some with death, whereas in Turkey, homosexuals today figure among the country's top singers, television personalities and fashion designers. Still, prejudice is strong in daily life. Activists say most of them risk their jobs if they disclose their sexual identity and there are no laws to protect their rights. The Turkish army, they complain, is the only NATO force to still consider homosexuality a psychological disorder, and the police are notoriously harsh with transsexuals and transvestites.” [27b]

6.346 In comments submitted to the Advisory Panel on Country Information in September 2004 UNHCR stated that:

“Gay and lesbian groups report incidents of civilian violence against gays and transgender persons, including murders, especially in Istanbul. It is quite possible that such incidents are under-reported. There may also be some prevalence of gay and transgender suicide throughout Turkey, but mostly in conservative areas. It is a widely known fact that the homosexuals receive unfair treatment from the Police. Their complaints against the police are not properly evaluated” [18a] (p8)

6.347 According to the Netherlands Ministry of Foreign Affairs 2002 “There is a certain ambivalence towards homosexuality in Turkey. ‘Active’ sexual partners are not usually considered homosexual. In the eyes of many Turks, only ‘passive’ sexual partners are homosexual.” [2a] (p141)

6.348 The Netherlands report further states that “In general homosexuals need not fear official persecution by the Turkish authorities. There is no policy actively directed against homosexuals in Turkey. Nor is there any policy on the basis of which homosexuals have less access to public institutions, or fewer rights to practise a profession, than other Turks. In practice, however, people may lose their jobs if it becomes clear that they are homosexual.” [2a] (p141)

6.349 The report continues “Rural areas as well as relatively conservative areas such as Konya are not very tolerant of homosexuals. Individuals experiencing problems in such areas because of their sexuality appear to escape them to some extent by moving to places like Istanbul, Izmir or Ankara, where there is now a fairly well-developed homosexual scene.” [2a] (p141)

6.350 The report continues “There are some homosexual rights organisations. The most important are Lambda, founded in 1993, in Istanbul, and Kaos GL in Ankara. They organise weekly activities, and national demonstrations take place several times a year. Since 1994 Kaos GL has published an eponymous

bi-monthly magazine which is available in alternative bookshops in many cities. Interest groups are tolerated but claim that local authorities have been obstructive in the past.” [2a] (p142)

6.351 See also Section 5 on Military service

Transvestites

6.352 The Netherlands Ministry of Foreign Affairs 2002 reported that “Turkish law does not prohibit transvestism. Nor does government policy discriminate against transvestites in any way.”

6.353 The Netherlands report 2002 continues

“As in the case of homosexuals, attitudes to transvestites in Turkey are also ambivalent. Some nationally known transvestites from the world of show business are highly regarded in Turkey... The transvestite singer Zeki Müren, who died in 1996, was given a state funeral for his services as a singer. Less famous transvestites face more difficulties. Often those who are open about their transvestism cannot find work. A large proportion of transvestites in Turkey support themselves through prostitution. From time to time, transvestite prostitutes are attacked by customers, passers-by, or local police officers. There are at least two known cases of transvestites who have reported police misconduct and where the police officers have actually appeared in court. One of them is the Police Chief with the nickname ‘Hose Süleyman’, who is alleged to have beaten transvestites with a length of hose.” [2a] (p142)

6.354 Amnesty International’s annual report on Turkey published in May 2004 stated that

“On 18 February [2003] the trial of Süleyman Ulusoy (known as ‘the Hose’), a police superintendent, was suspended under the terms of the December 2000 ‘amnesty law’ (Law No. 4616 on Conditional Suspension of Trials and Sentences for Offences Committed up until April 1999). A videotape showing him beating transvestites with a hosepipe in the Beyoglu police headquarters in Istanbul had been broadcast on television in 2000. He remained on duty in Istanbul.” [12i] (p2)

Transsexuals

6.355 According to the Netherlands Ministry of Foreign Affairs 2002

“Transsexual operations are legally permitted and may be performed in Turkey subject to a number of conditions. The new Civil Code, which entered into force on 1 January 2002, imposes stricter conditions than in the past. Candidates must submit a medical certificate stating that the sex change is necessary for the mental health of the person concerned. Persons who have undergone a sex change can record this fact in the civil register and are allowed to marry afterwards. The ambivalent social attitude towards transvestites also applies to

transsexuals. The famous singer, Bülent Ersoy, who had a sex change in 1980 and married as a woman in 1999, is idolised, but less well-known transsexuals face the same difficulties as transvestites. Their position in Turkish society is also generally comparable to that of transvestites.” [2a] (143)

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6c. Human Rights: Other Issues

Members of illegal organisations

6.356 As highlighted in the USSD 2004:

“The HRA [Human Rights Association] estimated that there were approximately 6,000 to 7,000 political prisoners, including leftists, rightists and Islamists. Of these, approximately 1,500 were alleged members of Hizballah or other radical Islamist political organizations. The Government claimed that alleged political prisoners were in fact charged with being members of, or assisting, terrorist organizations. According to the Government, there were 4,508 convicts and detainees held on terrorism charges at year's [2004] end.” [5c] (Section 1e)

6.357 The USSD 2004 also reported that:

“In July [2004], the High Court of Appeals overturned the April [2004] conviction of Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak, former members of Parliament from the Democracy Party. An Ankara SSC had convicted the four defendants in their retrial on charges of being members of, or supporting, the PKK. The Court of Appeals ruled that the SSC had failed to conform to recent legal reforms in its conduct of the retrial. The Court of Appeals' reasons for overturning the verdict included the SSC's rejection without explanation of a defense request for the replacement of the chief judge, the use of statements and testimony by the prosecution that were not read in court, the SSC's refusal to permit some defense witnesses to testify, and the failure to have audio and video recordings used as evidence transcribed by impartial parties. In June, the Court of Appeals ordered the release of the defendants. As a result of the Court of Appeals ruling, a heavy penal court in October [2004] began a new trial for the defendants.” [5c] (Section 3)

6.358 The Netherlands Ministry of Foreign Affairs Official General report on Turkey published January 2002 reported that “There has been no change in the Turkish authorities' attitude towards the PKK [Kongra-Gel] since it withdrew its fighters outside Turkey's borders. Like members of militant left-wing or Islamist organisations, PKK members still face criminal prosecution by the authorities.” [2a] (p129)

6.359 The Netherlands report 2002 continues stating that

“Whoever can be shown to be a member of the PKK, a radical left-wing group such as DHKP/C or TKP/ML or a militant Islamist group such as Hezbollah will be prosecuted under Article 168 of the Criminal Code in conjunction with Article 5 of the Anti-Terror Law. Under Article 168 the penalty is imprisonment for a minimum of ten years and, in the event of aggravating circumstances, a maximum of fifteen years. The penalty is increased by half under Article 5 of the Anti-Terror Law. The above Articles impose heavier penalties on leaders of such organisations. They will also be prosecuted under Articles 125 or 146 for attempted armed subversion of the established constitutional order, which is punishable the death penalty.” [2a] (p130) (Note: The use of the death penalty was abolished in all circumstances in January 2004. (See Section 5 on Death Penalty).

6.360 The Netherlands report 2002 further states that “Individuals who have criminal proceedings pending against them and are wanted by the authorities are recorded in the central Judicial Records System, so that the authorities are informed nation-wide when a person is wanted.” [2a] (p130)

Activists engaging in marginal activities for illegal organisations

6.361 The Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’ noted that:

“According to diplomatic sources in Ankara the security forces’ actions against persons suspected of taking part in marginal activities for illegal organisations is quite unpredictable. Handing out of leaflets could trigger detention, ill-treatment and criminal persecution one day, and go without any sanctions the next day. Although regional differences seem to play a role, it would be difficult to see a pattern as to how security-forces would sanction a certain behaviour in a certain city or area. Professor Seref Ünal, former state secretary at the Ministry of Justice gave a similar reply when I asked him to comment on the administration of justice in such proceedings. He stated that case law in cases of marginal activities (handing-out of leaflets, spreading of propaganda and so forth) varied extremely. A person being found in possession of PKK/Konra-Gel pamphlets might be acquitted by one court while another court could sentence him to two or three years in prison. “ [16] (p26)

6.362 The Norwegian report continued:

“The Human Rights Foundation reported that several persons had recently been arrested for handing-out PKK/Konra-Gel-leaflets. Before the amendment of paragraph 169 of the Criminal Code (support for illegal organisations) this paragraph was frequently applied in such proceedings. Now, some state prosecutors would tend to apply paragraph 168 (membership of an illegal organisation). However, most of the accused in such proceedings are acquitted, according to the Human Rights Foundation. I was further informed about a principle judgement of the Court of Cassations (*Yargıtay*) in Ankara, which might

indicate a new line for state-prosecutors and judges in cases of marginal activities of illegal organisations. In September 2004, the court of cassation repealed a judgement of the (former) State Security Court of Diyarbakır who had sentenced a person to a prison-sentence of 45 months for having demanded the release of Abdullah Öcalan during the DEHAP election campaign in March 2003. In this case the State Security Court had applied article 169 of the Penal Code. In its judgement, the Court of Cassation decided that article 169 could not be applied any more in such cases after it had been amended in August 2003. It imposed the newly established Regional Serious Felony Court to apply article 312 of the Penal Code (incitement to racial hatred) instead. This judgement, establishing a new principle, is expected to have an important impact on similar cases in the future.” [16] (p26-27)

Relatives of members of the illegal organisations

6.363 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’

“To the question on whether persons who are suspected of having one or more family members in the PKK/Konra-Gel might face persecution, I got few and mostly vague answers... Both Mr. Tanrıkkulu and the head of DEHAP in Diyarbakır, Mr. Birtane stated that such arrests happened „sometimes“ along with other forms of harassment as well, such as repeated questioning by the police, intimidation, verbal assaults, beating, detention and arrest. The level of harassment would often depend on the degree of kinship and on the rank of the respective relative in the PKK/Konra-Gel. However, it was difficult to detect a pattern on how relatives of PKK/Konra-Gel- militants are dealt with, it depends on the circumstances and on the law-enforcement officials in charge. Any person having a relative within the PKK/Konra-Gel should expect some attention from the authorities without becoming automatically subject to harassment or persecution. Harassment solely on the grounds of being a relative to a suspected criminal, could not be ruled out.” [16] (p27)

6.364 According to the Netherlands Ministry of Foreign Affairs report 2002

“Those known to have or suspected of having one or more family members in the PKK can expect some attention from the authorities. Depending, among other things, on the degree of kinship and the (suspected) position of their relative(s) within the PKK, family members may be subjected to varying degrees of intimidation, harassment, official obstruction, questioning and similar problems. It is perfectly conceivable, even probable in many cases, for the families of (suspected) PKK members to be kept under observation by the authorities or questioned and interrogated for instance about the whereabouts of their fugitive relatives, but also because they could as often as not be potential suspects themselves. In many cases the Turkish authorities assume that some relatives of PKK supporters harbour sympathies for the party.” [2a] (p135)

6.365 The Netherlands report continued “However, if the authorities are convinced that relatives of (suspected) PKK members do not have any links to the PKK they are not persecuted.” The report further states that “Countless people in Turkey have one or more relatives in the PKK without having any significant problems with the authorities as a result.” [2a] (p135)

6.366 The Netherlands report states that “The above applies also to relatives of members of left-wing or Islamic militant groups.” [2a] (p135)

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Treatment of Returned Failed Asylum Seekers

6.367 The Netherlands report 2002 states that

“There are no indications that Turkish nationals are persecuted in Turkey purely because they applied for asylum abroad. The Turkish authorities are aware that many citizens leave the country for economic reasons and apply for asylum elsewhere. However, people who have engaged in activities abroad which the Turkish authorities regard as separatist are at risk of persecution if the Turkish authorities find out.” [2a] (p144)

6.368 According to the Netherlands Ministry of Foreign Affairs Official General report on Turkey published in January 2003

“In the removal of refused Turkish-Kurdish asylum seekers to Turkey it is true that they are checked on return in the same way as other Turkish subjects. It is checked whether there are criminal judgements or that there is a criminal investigation by the Jandarma against the person concerned. Those refusing to do military service and deserters are [also] recorded at the border posts.” [2d] (p102)

6.369 The Netherlands 2003 report continued “The Turkish border authorities shall mostly question the person concerned if one of these facts is established, in the case of incorrect border crossing documents, an earlier illegal exit from Turkey or removal from abroad. The questioning takes place at the police station of the airport and mostly involves;

- (i) establishment or checking personal details,
- (ii) reasons and period of exit from Turkey
- (iii) reason for the asylum application
- (iv) reasons for any refusal of the asylum application
- (v) any criminal record and past record at home and abroad including drug offences
- (vi) possible contact with illegal organisations abroad

However, if there are no suspicions, as a rule after an average of six to nine hours they are released.” [2d] (p102)

6.370 The Netherlands report 2003 continues

“If it appears that the person concerned is a suspect for punishable acts, they are transferred to the [appropriate authority] concerned. In Istanbul this is in most cases the Police Headquarters in the Bakirköy district located not far from the airport. Persons who are suspected of membership of the PKK/KADEK, left-wing radical organisations such as the DHKP/C or TKP/ML, militant Islamic organisations, or persons suspected of providing support or shelter to one of those organisations are transferred to the Anti-Terrorist unit of the police, which is housed in the same headquarters. At the anti-terrorist unit of the police, the suspect being subject to torture or mistreatment cannot be excluded.” [2d] (p102-103)

6.371 A senior official at the Visa Department, Ministry of Foreign Affairs, told the IND fact-finding mission to Turkey in March 2001 that

“For the past five to ten years Turkey had not denied passports to undocumented would-be returnees, [although] it had denied them in the 1980s. He said that the Turkish Government now recognised that the overwhelming majority of Turkish nationals who had applied for asylum overseas had done so purely for economic reasons. They were of no interest to the Turkish Government, and would not be imprisoned on return. The airport police might question them about for example, the loss and destruction of their passports, but this would be a low-level investigation. The subjects would quickly be released, almost certainly without charge, and allowed to go about their daily life without hindrance.” [48] (p51)

6.372 The Netherlands Ministry of Foreign Affairs report on Military Service published in July 2001 states that

“If [draft evaders and deserters are] arrested, the arresting body transfers them within a maximum of 48 hours to their military unit. If the persons concerned are not being prosecuted for (political) offences other than evasion of registration/examination or enlistment or for desertion, the danger of abuse, intimidation, mistreatment or torture during the interrogation or the 48-hour maximum detention is very slight. Persons who have evaded registration/examination or failed to report are set free by the arresting body after interrogation and summoned to appear within a few days at their military registration office.” [2b] (p36)

In comments submitted to the Advisory Panel on Country Information in September 2004, UNHCR noted: “While this practice generally applies to draft evaders, especially when they are university graduates, it does not apply to deserters in any case. An evader who is not a university graduate and who is over the recruitment age may not expect to be set free after arrest.” [18a] (p7)

6.373 The UNHCR further stated that:

“For those who are not university graduates: In case of a possible medical report to prove that the applicant was unable to perform the military service due to a medical reason and if the report provides reasons for not performing the service when arrested, this will be considered by the Military Police (*Inzibat*) and case will be referred to the military prosecutor. Meanwhile the detainee will stay in custody. “[18] (p8)

6.374 In a letter dated 9 August 1999 the UNHCR stated that “The views expressed in our fax transmission of 20 May 1999 to the Dutch Permanent Mission are correct and accurate; UNHCR does not have any objection to returns of Turkish asylum seekers who after a fair and efficient asylum procedure have been found not to be refugees nor to be in need of international protection on other grounds.” [18b]

6.375 Turkish citizens who are without passports are returned on one-way emergency travel documents, which are issued by the Turkish Consul General in London. [Annex H](#) provides details of the number of returns of Turkish nationals between 1989-2001 from Western Europe, the USA, Canada and Australia.

Return of Turkish Kurds from Iraq

6.376 According to the UNHCR on the 6 January 2004 15 Turkish refugees returned to Turkey from camps in Northern Iraq. The UNHCR noted that “This latest movement brings the total number of Turkish refugees returned from Iraq with UNHCR help to 2,241 people since 1998.” [28a]

6.377 On the 23 January 2004 the UNHCR announced that Iraqi, Turkish and UNHCR officials agreed the modalities of the voluntary return to Turkey from Iraq of up to 13,000 Turkish citizens (ethnic Kurds) who have lived in exile in Iraq since the early 1990s. [28b]

6.378 The UNHCR briefing note continued

“Under the agreement reached at the Turkish capital, Ankara, the Iraqi authorities will ensure that the return is voluntary and that the refugees are not subjected to pressure. The accord stipulates that the UNHCR will have full and unhindered access to the refugees both on Iraq territory and once they have gone back to Turkey. The Turkish authorities are to ensure that the refugees who volunteer to go back to Turkey are free to return [to] their former places of residence or any other place of their choice within Turkey.” [28b]

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Government Monitoring of Human Rights

6.379 The USSD 2003 reported that

“Parliament has established numerous bodies to monitor the human rights situation, including:

- (i) The High Human Rights Board, an interministerial committee responsible for making appointments to human rights posts;
- (ii) A Human Rights Consultation Board, designed to serve as a permanent forum for the exchange of ideas between the Government and NGOs;
- (iii) A Human Rights Investigative Board, a special body to be convened only in cases where lower-level investigations are deemed insufficient by the Human Rights Presidency. The Human Rights Investigative Board has never been convened.” [5d] (p23)

6.380 The USSD 2004 reported that:

“The Government's Ten Year Human Rights Education Committee held regional seminars to educate civil servants and others on human rights problems. Regional bar associations and the EU held training seminars with police, judges and prosecutors in several provinces and in Ankara headquarters, focusing on EU human rights standards. The Justice and Interior ministries conducted numerous training programs for law enforcement and security officials, judges, and prosecutors on recent legal reforms and European Court of Human Rights (ECHR) case law.” [5c] (Section 1d)

6.381 The European Commission Regular Report on Turkey's progress towards Accession 2004 published 6 October 2004 reported that

“With regard to the promotion and enforcement of human rights, Turkey has established a number of bodies since 1999 such as the Reform Monitoring Group, the Human Rights Presidency, the provincial and sub-provincial Human Rights Boards, the Human Rights Advisory Committee and several investigation boards. This reflects a new approach in developing a constructive relationship between human rights organizations and the Turkish State. However, the impact of these bodies has as yet been very limited.” [71c] (p32)

6.382 The Turkish Daily News of 8 February 2005 reported that:

"The Prime Ministry Human Rights Advisory Board (IHDK) chairman Prof. Ibrahim Kaboglu and three of the top members of the board resigned on Monday, noting that they were incapable of continuing with their work, because the government had no intention of listening to them. He said: "We weren't pushed out for neglecting our work, we were pushed out for performing our work properly. Some circles reacted negatively when we made a certain decision or became angry when we proposed something they did not like." The government announced on Feb. 3 the term of office had ended for 14 members of the 78-member Board including Chairman Ibrahim Kaboglu, reported CNN-Turk television on its Web site. Speaking at the press conference,

Kaboglu said his attorney had filed a lawsuit against the government for terminating the terms of 14 members." [23s]

Training on human rights

6.383 The USSD 2004 reported that "The TNP and Jandarma were effective and received specialized training in a number of areas, including human rights and counterterrorism. The armed forces emphasized human rights in training for officers and noncommissioned officers. Noncommissioned police officers received 2 years of training. "[5c] (Section 1d)

6.384 The European Commission 2003 reported that

"With regard to training on human rights, the Turkish authorities have pursued a number of programmes targeting relevant personnel in the Ministry of the Interior, Ministry of Justice, the gendarmerie and the police. The implementation of the European Commission-Council of Europe joint initiative has allowed for the training of 225 trainers, responsible for training over 9,000 judges and prosecutors. The Human Rights Presidency has benefited from training on the promotion of human rights awareness" [71c] (p33)

6.385 The Council of Europe's Commissioner for Human Rights reported in December 2003 that "Accordingly, since 25 April 2001 the period of basic training in police colleges has been increased from nine months to two years, a very positive change since violations are usually committed by people who have not been properly trained." [21] (p31)

6.386 The Commissioner also reported that in April 2002 the Police Academy had started to distribute a collection of European Court of Human rights judgements against Turkey translated into Turkish and accompanied by comments by two police officers. The Commissioners report states that "This is an extremely important advance that will help to end police officers' ignorance of the subject." [21] (p31)

Reform Monitoring Group

6.387 According to the European Commission 2004

"Since its establishment in September 2003, the Reform Monitoring Group has examined a number of human rights violations and exerted influence to resolve specific problems raised by foreign embassies and NGOs. Another monitoring body, the Human Rights Advisory Committee, which is composed of representatives from the authorities and civil society, has held a number of exchanges, but in practice its impact has been limited." [71c] (p32)

Human Rights Presidency and Human Rights Boards/Councils

6.388 The European Commission 2004 reported that "Since January 2004, the Human Rights Presidency has intensified its work to raise awareness on human rights, process complaints and address specific cases. Individuals are now able to register complaints of human rights abuses by completing a form

with a list of questions inspired by the ECHR, which can be posted in complaint boxes.” [71c] (p32)

6.389 The EC report 2004 continued

“However, the Human Rights Presidency has not yet succeeded in having a nationwide impact; some Boards have received no applications and some have never convened meetings. According to official statistics, 388 individuals filed complaints of human rights violations from January to June 2004. Their complaints concerned *inter alia* torture and ill-treatment and the right to liberty and security. The independence of the Boards has been brought into question, in particular because they are chaired by Governors and include participation from the Governors’ administrations. Consequently, two major Turkish human rights NGOs, the Human Rights Association and Mazlum-der, still refuse to participate in the work of these Boards.” [71c] (p32)

6.390 The USSD 2004 noted that:

“There were government-sponsored human rights councils in all 81 provinces and 850 subprovinces to serve as a forum for human rights consultations among NGOs, professional organizations, and the Government. The councils investigated complaints and, when deemed appropriate, referred them to the prosecutor's office. However, some councils failed to hold regular meetings or effectively fulfil their duties. Human rights NGOs generally refused to participate on the councils, maintaining that they lacked authority and were not independent, in part because unelected governors and subgovernors served as chairmen.” [5c] (Section 4)

6.391 The USSD 2004 continued:

“A Human Rights Presidency monitored the implementation of legislation relating to human rights, coordinated with NGOs, and educated public officials. The Presidency was attached to the Prime Ministry; it did not have a separate budget, and its resources were limited. Other government human rights bodies include the High Human Rights Board, an interministerial committee responsible for making appointments to human rights posts; a Human Rights Consultation Board, which serves as a forum for the exchange of ideas between the Government and NGOs; and a Human Rights Investigative Board, a special body to be convened only in cases where lower-level investigations are deemed insufficient by the Human Rights Presidency. The Human Rights Investigative Board has never been convened. The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections.” [5c] (Section 4)

6.392 The European commission 2004 reported that “At the local level, the number of provincial and sub-provincial Human Rights Boards increased from 859 to 931. A regulation published in November 2003 removes representatives of the security forces from these Boards and facilitates greater participation by civil society representatives.” [71c] (p32)

6.393 Amnesty International (February 2004) stated that

“One positive step towards reactivating an official state body charged with investigating claims of human rights violations comes with the recent decision to restructure the 930 Provincial Human Rights Boards under the Human Rights Presidency of the Prime Ministry, by removing the local heads of the police and gendarmerie from the boards. The incorporation of independent non-state officials may contribute towards reactivating these boards and making them more effective and transparent in their functioning.” [12d] (p2)

6.394 The Amnesty report continued “Another achievement has been the work of the present Parliamentary Human Rights Commission which, within its limited means, is committed to investigating complaints of human rights violations.” [12d] (p2)

Parliamentary Human Rights Commission/ Parliamentary Human Rights Investigation Committee

6.395 The Netherlands report 2002 stated that “A Parliamentary Human Rights Commission set up by the Turkish Parliament started work in December 1990.” [2a] (p64)

6.396 The European Commission 2004 noted that:

“The Parliamentary Human Rights Investigation Committee continued to collect complaints on human rights violations and requested that the relevant authorities follow up and redress the situation when necessary. It received 791 complaints between October 2003 and June 2004; of these 322 have been dealt with. The Committee is also providing procedural advice to citizens who would like to apply to the ECtHR following the exhaustion of domestic remedies. The Committee has adopted two reports on issues related to the human rights situation.” [71c] (p32)

6.397 As outlined in ‘The Activity Report of the Human Rights Investigation Commission from 3 November 2002 –20 May 2004’ provided by the Turkish Embassy in London in August 2004, a number of sub commission were formed during this period to visit provinces and cities and to investigate specific cases of human rights abuses. In January 2003 sub commissions visited the provinces of Diyarbakir, Bingol, Batman, Mardin, Mus, and Tunceli to monitor how the situation in these provinces had changed after the lifting of the State of Emergency. In May 2003 a sub committee visited Andac village, Uludere in Sirnak province in order to investigate the shooting of Haci Olmez by Gendarmes on the 8 April 2003. [60a] (p1-2)

6.398 The Activity Report also stated that the Human Rights Investigation Commission received 804 applications relating to human rights issues in the period 3 November 2002 to 10 May 2004. Of these 244 (30%) were related to prisons, 142 (15%) to judicial problems and 75 (9%) were related to torture and ill-treatment. During the period 549 of the 804 applications were concluded, 207 were still being processed and 47 were still pending. [60a] (p 8-9)

6.399 The USSD 2004 noted that “The parliamentary Human Rights Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigated alleged abuses, prepared reports, and carried out detention center inspections.” [5c] (Section 4)

Prison Inspection Committees/Prison Monitoring Boards

6.400 The Netherlands Ministry of Foreign Affairs report 2002 reported that

“Special Prison Inspection Committees were set up pursuant to a law adopted in June 2001. An inspection committee has to be set up for the area of jurisdiction of each criminal court. The committee is to be made up of five members chosen for four years by a commission of judges from the relevant area. The members must have university education and practise the profession of doctor, lawyer, psychologist or similar.” [2a] (p67)

6.401 The report continued

“The committee's tasks consist in carrying out bi-monthly inspections of the circumstances in which convicted prisoners or persons remanded in custody are kept. Once every three months a written report of findings must be submitted to the Ministry of Justice, the court and the public prosecutor's office of the area of jurisdiction in which the relevant committee operates and, if necessary, to the Parliamentary Human Rights Commission.” [2a] (p68)

6.402 The USSD 2004 noted that:

“The Government permitted prison visits by representatives of some international organizations, such as the CPT [Council of Europe's Committee for the prevention of torture and inhuman or degrading treatment or punishment]; however, domestic nongovernmental organizations (NGOs) did not have access to prisons. The CPT visited in March [2004], and conducted ongoing consultations with the Government. Requests by the CPT to visit prisons were routinely granted. [5c] (Section 1c) International humanitarian organizations were allowed access to "political" prisoners, provided they could obtain permission from the Ministry of Justice. With the exception of the CPT, which generally had good access, such organizations were seldom granted permission in practice.” [5c] (Section 1e)

The Gendarmes Investigation and Evaluation Centre for Human Rights Abuse Issues (JIHIDEM)

6.403 According to information on human rights monitoring provided by the Turkish Embassy in London in August 2004, “The Gendarmes Investigation and Evaluation Centre for Human Rights Abuse Issues (JIHIDEM) became operational on 26 April 2003 within the Gendarmes General Command Headquarters and operating on a 24 hour basis in order to systematically deal with or answer complaints regarding human rights abuse issues that might arise whilst gendarmes are fulfilling their duties.” [60a] (p10)

6.404 According to the information from the Turkish Embassy

“Within a year of its establishment JIHIDEM received 221 applications of which 65 were deemed to be within the human rights abuse definition of JIHIDEM, 73 were not within its definition and were directly related to Gendarmes’ actions and that 83 were not related to Gendarmes at all. Among the 65 applications that were investigated 19 were for ill treatment, 16 were for ill treatment/unjust custody, 12 for non-effective investigation, 6 for unjust custody, 5 for being pressurised to withdraw complaints, 3 for torture, 2 for not abiding with a suspect’s custody rights, 1 for the abuse of a person’s right to life and 1 for the abuse of a person’s private life.” [60a] (p11)

6.405 The information continued “Following the conclusion of the investigations of applications made to JIHIDEM 10 were sent to courts, 10 had already been under judicial investigation, 1 resulted in disciplinary action imposed by the personnel manager, 43 were found to be not true and the investigation on 1 is still continuing.” [60a] (p11)

6.406 The Turkish Daily News reported in May 2004 that members of the Gendarmerie Human Rights Violations Investigation and Assessment Centre were distributing brochures about human rights to villagers in Diyarbakir. The brochures asked for assistance in stopping human rights violations and provided a telephone number for people to call if they witness any abuses. Diyarbakir Gendarmerie Command said that the brochure would be distributed to all villages in the region. [23m]

6.407 The information provided by the Turkish Embassy also reported that “In order to enable the public to easily access and make applications to JIHIDEM and also to promote JIHIDEM, an internet web site called www.jandarma.gov.tr has been activated in addition to known application tools (letter, phone, fax, in person).” [60a] (p11)

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European Court of Human Rights

6.408 The USSD 2004 noted that

“The Justice and Interior ministries conducted numerous training programs for law enforcement and security officials, judges, and

prosecutors on recent legal reforms and European Court of Human Rights (ECHR) case law. [5c] (Section 1d) There were no developments in the appeal of the 2003 ECHR ruling that jailed PKK leader Abdullah Öcalan did not receive a fair trial during the proceedings that led to his 1999 conviction.” [5c] (Section 1e)

6.409 As reported in the USSD 2003 “The Government recognized the jurisdiction of the ECHR. During the year [2003], the ECHR ruled against the Government in 76 cases. Of these, 56 involved the right to a fair trial. The Government accepted a friendly settlement in 45 cases, and the ECHR ruled in the Government's favor in 1 case.” [5d] (p10)

6.410 The USSD 2003 continues

“On March 12 [2003], the ECHR ruled that jailed PKK leader Abdullah Öcalan did not receive a fair trial in his 1999 conviction in an Ankara SSC. The ECHR determined that the SSC was not an ‘independent and impartial tribunal,’ in part because a military judge sat on the three-judge panel at the start of the trial. However, the ECHR determined that Öcalan's prison conditions and the circumstances of his arrest were not unlawful. Both the Government and the defense appealed the ruling.” [5d] (p10)

6.411 The European Commission 2004 reported that

“Turkey has made increased efforts since 2002 to comply with the decisions of the European Court of Human Rights (ECtHR). The possibility of retrial in civil and criminal cases in which the ECtHR has found violations was introduced. Retrials have taken place and led to a number of acquittals. The case of Leyla Zana and colleagues is emblematic of the difficulties experienced by the different branches of the judiciary when it comes to the interpretation of the reforms.” [71c] (p16)

6.412 The EC report 2004 continued “Since October 2003, the European Court of Human Rights (ECtHR) has delivered 161 judgements concerning Turkey. On 132 occasions the Court found that Turkey had violated the ECHR, and 23 friendly settlements were concluded. In 2 cases, it was found that Turkey was not in violation of the ECHR. During this period, 2,934 new applications regarding Turkey were made to the ECtHR. [71c] (p30)

6.413 The USSD 2003 reported that “The law allows ECHR rulings to be used as grounds for a re-trial in a Turkish court. The General Legal Council of the Court of Appeals must approve re-trial applications. In January [2003], Parliament amended the law to make the right of re-trial retroactive to most cases prior to August 2002, the date of the original law's adoption.” [5d] (p10)

6.414 The Council of Europe's Commissioner for Human Rights (December 2003) reported that in April 2002 the Police Academy had started to distribute a collection of European Court of Human rights judgements against Turkey translated into Turkish and accompanied by comments by two police officers.

The Commissioners report states that “This is an extremely important advance that will help to end police officers ignorance of the subject” [21] (p31)

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Treatment of Non-governmental organisations (NGOs)

6.415 The USSD 2004 reported that

“A number of domestic and international human rights groups operated in many regions, but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. The Government met with domestic NGOs (which it defined broadly to include labor unions), responded to their inquiries, and sometimes took action in response to their recommendations.” [5c] (Section 4)

6.416 According to the Netherlands Ministry of Foreign Affairs (January 2002)

“Two of the most prominent (NGOs) are the Turkish Human Rights Foundation (HRF or TIHV) and the Human Rights Association (HRA or IHD). In addition to HRA and HRF, many other human rights organisations are active. Mazlum-Der is an organisation with Islamic leanings which has sixteen branches in the whole of Turkey and also regularly reports on abuses. The Turkish Democratic Foundation (Türkiye Demokrasi Vakfi) and the Helsinki Citizens' Assembly (HCA) work from Istanbul and Ankara respectively. Another human rights organisation is the Association of Contemporary Jurists (Çagdas Hukukçular Dernegi). There are also human rights centres associated with Turkish universities.” [2a] (p69)

6.417 The Freedom House report ‘Countries at the Crossroads 2005 – Turkey, published in December 2004 noted that “Regulation of the activities and membership of nongovernmental organizations (NGOs) has relaxed with recent reforms, but limitations remain. NGOs are often fined, thus making their work difficult and at times financially unfeasible, although imprisonment of members has decreased. Demonstrators and human rights defenders who refer to Kurdish rights or Abdullah Ocalan are particular targets.” [62c] (p8)

6.418 As noted by Kirsty Hughes in her paper dated December 2004 “A growing range of NGOs is beginning to flourish in Turkey, and for many civil society actors, the EU goal supports them in their attempts to build a genuine civic space and pluralist democracy, without facing charges that their actions and goals are undermining national security or the integrity of the state (or at least facing fewer such charges).” [77] (p4)

6.419 Kirsty Hughes paper continued:

“In the run up to the 17th December EU summit decision, human rights NGOs were criticised by politicians including Erdogan himself (including suggestions of connections to terrorist groups) for making public their criticisms of the current human rights situation i.e. for doing their job... At the same time, the NGO sector has developed rapidly in

recent years, and NGOs do report positive interaction with and consultation by government: embedding this into a more widely spread understanding and support for organised civil society is the challenge over time.” [77] (p29-30)

6.420 The USSD 2004 reported that “Human rights organizations and monitors, as well as lawyers and doctors involved in documenting human rights violations, continued to face detention, prosecution, intimidation, harassment, and formal closure orders for their legitimate activities.” [5c] (Section 4)

6.421 The USSD 2004 noted that:

“Amnesty International maintained a headquarters in Istanbul and reported good cooperation with the Government during the year. The Government also cooperated with international governmental organizations such as the CPT, UNHCR, and the International Organization for Migration. In October, the Government permitted the visit of and met with the U.N. Special Representative for Human Rights Defenders. In October, the Interior Ministry issued a circular directing local authorities to comply with U.N. and EU guidelines for protecting the rights of human rights defenders.” [5c] (Section 4)

6.422 The USSD 2004 continued

“Representatives of diplomatic missions who wished to monitor human rights were free to speak with private citizens, groups, and government officials; however, security police routinely placed such official visitors in the southeast under visible surveillance. Visiting foreign government officials and legislators were able to meet with human rights monitors. There were no public reports that officials representing foreign governments were denied permission for such visits. However, police reportedly harassed and intimidated some human rights activists in the southeast after the activists met with foreign diplomats.” [5c] (Section 4)

6.423 The European Commission 2004 reported that

“While acquittal rates are significantly higher than in the past, human rights defenders, including NGOs and lawyers, continue to be subjected to considerable judicial harassment, as illustrated by the number of open investigations and court cases brought against them. For example, between October 2003 and August 2004, 98 court cases and investigations were launched against the Turkish Human Rights Association and 58 are currently ongoing. The majority of these are related to press conferences, which, until June 2004, were treated by the authorities under the Law on Public Meetings and Demonstration Marches, which allows for the attendance of the police.” [71c] (p42)

6.424 The EC report 2004 continued “Press conferences and other activities organised by NGOs are routinely subject to videotaping by the local police, especially in the Southeast. This includes in many instances the videotaping

of participants' identification cards. Those who do not present their identification are often placed in custody." [71c] (p42)

6.425 The Amnesty International report 'Judicial Harassment of human rights defenders Turkey – 'repeal one law, use another' published on 1 November 2004 noted that:

"Human rights defenders in Turkey continue to be targeted for harassment and intimidation by state officials. Trials and investigations are frequently opened against human rights defenders. While such trials usually end in acquittal or a sentence which is suspended or commuted to a fine, Amnesty International considers them to be a form of state harassment designed to intimidate human rights defenders and restrict their activities... Despite recent legal and constitutional reforms, the law contains many possible pretexts with which to restrict or punish the work of human rights defenders in Turkey. As some laws have been changed, new regulations are found with which to obstruct their activities - a case of 'change one law, use another'. Prosecutions are arbitrary and vary throughout the country - activities which may go allowed in one province will be restricted, investigated or prosecuted in another. " [12m] (p1)

6.426 Amnesty International in its report 'Restrictive laws, arbitrary application – the pressure on human rights defenders' published in February 2004 reported that

"Despite recent legal and constitutional reforms in Turkey, human rights defenders in that country continue to be targeted for harassment and intimidation by state officials, and their activities are still restricted through a huge number of laws and regulations. Those used against human rights activists include Anti-Terror laws, public order legislation, laws on associations and foundations and press laws, with the result that the rights to freedom of association, assembly and expression cannot be exercised fully and freely." [12e] (p1)

6.427 The AI report continued

"Human rights defenders are placed under surveillance by police officers, and their offices are searched on spurious grounds. Small demonstrations and meetings where press releases are read out are surrounded by large numbers of riot police, who sometimes outnumber the participants, while other police officers record and photograph those attending. The use of excessive force to disperse public events - and on occasion the mass detention of participants - can also be seen as an attempt to intimidate and silence human rights activists. All of these measures discourage others from becoming involved in such activities, and bolster the perception that the authorities are innately suspicious of - if not outright hostile towards - non-governmental organizations (NGOs)." [12e] (p1)

6.428 The AI report also stated that

“Human rights defenders are also now facing a pattern of pressure, which appears to have evolved concurrent with the reform process in Turkey, through the huge number of investigations and trials opened against them under various laws and regulations. While such trials usually end in acquittal or a sentence which is suspended or commuted to a fine, the effect is a form of judicial harassment designed to intimidate human rights defenders and hinder their public activities.” [12e] (p1)

6.429 The AI report continued

“As a result of the reform process and the removal of certain laws that had been used to silence and imprison human rights defenders - together with the improved security situation in Turkey - some types of pressure against human rights defenders have apparently decreased. For example, imprisonment of human rights defenders as prisoners of conscience has decreased. Several laws that the European Court of Human Rights has judged to have been used to violate the right to freedom of expression have been amended or abolished completely. However, as use of some old measures has become impossible, new ways have been found to obstruct the activities of human rights defenders.” [12e] (p7)

Human Rights Association (HRA) / İnsan Hakları Dernegi (IHD)

6.430 According to the Netherlands Ministry of Foreign Affairs report 2002

“The IHD was set up in 1986 with the general aim of promoting human rights in Turkey. The organisation's main activities are to collect and verify information on human rights violations. It publishes monthly reports and press releases on arrests, torture, disappearances in custody, violations of the right to freedom of expression and so on. The IHD also organises courses for teachers and lawyers which cover, *inter alia*, procedures for the right of individual petition.... Within the IHD there is a strong Kurdish current which maintains close ties to the Turkish-Kurdish opposition.” [2a] (p69)

6.431 According to the Turkish Daily News (July 2003) the HRA has 34 local branches spread throughout Turkey, and nearly 14,000 members. [23e]

6.432 As stated on the organisation's website (accessed on 23 March 2005), the HRA has set up local branches in Ankara, Istanbul, Izmir, Adana, Izmit, Bursa, Kayseri, Diyarbakir, Hatay, Trabzon, Mersin, Gaziantep, Mugla, Kirsehir, Corum, Konya, Aydin, Van, Urfa, Balikesir, Canakkale, Malatya, Rize, Adiyaman, Siirt, Sakarya, Batman, Bingol, Mus, Duzce, Mardin, Karadeniz Ereğli, Iskenderun. [73h] (p5)

6.433 The HRA website further stated that the HRA is a non-governmental and voluntary organization, not a body of any political parties or of a single

political tendency. "The HRA stands up for the oppressed individual, people, nation, sex and class...The HRA is against torture regardless of the individual, the geographical location and circumstance. The HRA defends the right to fair trial everywhere, for everyone and in any circumstances...The HRA defends unconditionally and without any restriction the right to freedom of expression. The HRA, similarly, defends the right to freedom of religion. "[73h] (p5)

6.434 Amnesty International reported in its Urgent Action note 121/03, published in May 2003, that on 6 May 2003 the police raided both the local branch and national headquarters of the HRA in Ankara. They confiscated a number books, cassettes, press releases and confidential files and computers, some of which contained information on human rights violations perpetrated by the security forces. A prosecutor from the Ankara State Security Court was reportedly present during the raids. At first the police would not reveal the reason for the raids-but when pressed, they reportedly gave the reason as "aiding and abetting an illegal organisation" (Article 169 of the Turkish Penal Code). [12b] The USSD 2003 reported that the investigation was still continuing at year's end [2003]. [5c] (p22)

6.435 The USSD 2003 reported that

"In July [2003], Mus police arrested Sevim Yetkiner, chairman of the HRA Mus office, and charged her with 'aiding and abetting an illegal organization' for allegedly shouting pro-PKK slogans at the funeral of a PKK member who died in prison. Her trial continued at year's [2003] end. Also in July, HRA reported that people identifying themselves as Jandarma made threatening phone calls to Ridvan Kizgin, chairman of the HRA Bingol office. The callers allegedly criticized Kizgin's statements on human rights issues and told him to come to the Jandarma base, which he refused to do." [5d] (p22)

6.436 The report continued "At years [2003] end, the trial of HRA Chairman Husnu Ondul and 46 others continued on charges connected with a January 2001 raid of HRA headquarters. The defendants were charged with possessing 33 publications prohibited by confiscation orders and faced sentences of 3 to 6 months if convicted." [5d] (p22)

6.437 In addition the US State Department reported that "In March [2003], an Ankara court acquitted former HRA Chairman Akin Birdal, who was tried for allegedly stating in 2000 that the Government 'should apologize for the Armenian genocide,' a statement he denied making." [5d] (p22)

6.438 The USSD 2004 reported that:

"In January [2004], prosecutors opened a case against Vetha Aydin, chairman of the HRA Siirt branch, for distributing posters featuring slogans in both Turkish and Kurdish. Aydin was charged with hanging posters without permission and was later acquitted...In August [2004], a Van court acquitted Selahattin Demirtas, president of the HRA Diyarbakir branch, on charges of making terrorist propaganda,

reportedly basing its ruling on the European Convention on Human Rights. [5c] (Section 2a) In June [2004], a prosecutor in Van indicted local DEHAP Chairman Hasan Ozgunes, HRA official Zuleyha Cinarli, and 11 others on terrorism charges stemming from their participation in a press conference on the Kurdish problem and the prison conditions of jailed PKK leader Abdullah Ocalan. A court acquitted them in August [2004].” [5c] (Section 3)

6.439 The USSD 2004 also outlined that the HRA had reported that prosecutors opened 98 court cases and investigations against the organization between October 2003 and August 2004, and that 58 cases remained ongoing at the end of 2004. The USSD 2004 further reported that “There were no developments in the Government’s investigation of the HRA headquarters and Ankara branch office. The investigation was opened following the May 2003 police raid of the facilities. “ [5c] (Section4)

6.440 As noted in the Norwegian Country of Origin Information Centre ‘Report of fact-finding mission to Turkey (7-17 October 2004)’:

“According to Mr. Selahattin Demirtas the head of the Human Rights Association (HRA) in Diyarbakır, the relation between the state authorities in the province of Diyarbakır and the local HRA-branch had become more “relaxed” in recent years. Much of the credit for this should be given to the new province-governor who appeared to be more open-minded and willing to support democratic reforms. The local head of the police and the Public Prosecutor, however, appeared to be more “old-fashioned” and reluctant to implement the new laws and regulations.” [16] (p8)

6.441 The Norwegian report continued:

“Both NGOs and lawyers continue to be subjected to judicial harassment – however, acquittal-rates seem to be much higher than in the past. Mr. Demirtas mentioned that the Public Prosecutor in Diyarbakır had filed numerous charges against him with 60 cases still pending at the time we were talking. Some of these charges were based on the Law on Meetings and Demonstrations (No. 2911) and on the Law on Associations (No. 2908), the latter containing provisions restricting NGOs’ cooperation with organisations outside Turkey. Although this law (and its crucial article 43) was amended in August 2002, the state prosecutor still has the option to file charges against NGOs dealing with foreign institutions – and appears to have done so in various cases.” [16] (p8)

Turkish Human Rights Foundation (HRF) / Human Rights Foundation of Turkey (HRFT) / Türkiye İnsan Hakları Vakfı (TIHV)

6.442 As stated on the HRFT website (accessed on 23 March 2005):

“The Human Rights Foundation of Turkey (HRFT) is a non-governmental, non-profit organization established in 1990...The HRFT has established five treatment and rehabilitation centers for torture survivors in the provinces of Ankara, İstanbul, İzmir, Adana and Diyarbakır. In these centers, teams consisting of physicians, psychiatrists, social workers and medical secretaries offer medical services to torture survivors. In addition, volunteer physicians from various branches of the medical field lend professional support to the work of the HRFT...Besides the five Treatment and Rehabilitation Centers, the HRFT has established the Documentation Center, which records, on a daily basis, human rights violations, problems and issues in Turkey and store the information on computers...The HRFT carries out professional work both in documentation of human rights violations and in treatment and rehabilitation of torture survivors. “ [83a] (p1)

6.443 The Netherlands 2002 report noted that:

“Because it [TIHV] is legally a foundation, it is answerable to the Directorate-General for Foundations of the Ministry of Foreign Affairs. TIHV branches are regularly inspected by officials connected with that Directorate-General. In September 2001 there was talk for a short time of closing all treatment centres except for the one in Diyarbakir as no authorisations for medical treatment had been given. After the TIHV was able to prove that only an initial check took place in the centres and actual treatment was confined to existing hospitals, the threat was warded off.” [2a] (p72)

6.444 The Netherlands report also added, “On 7 October 2001 the security forces together with the tax investigation department raided the TIHV office in Diyarbakir, confiscating 365 files relating to torture victims. On 10 October [2001] the police headquarters in Diyarbakir returned the files to the TIHV. In January 2002 a legal action was brought against one of the officials of the HRF branch in Diyarbakir for opening a health centre without authorisation.” [2a] (p72)

6.445 In its February 2004 report

“Amnesty International was concerned to hear of the sentencing to prison on 13 February 2004 of 31 people including members of the Izmir branch of the Human Rights Foundation of Turkey (HRFT), the Izmir branch of the Human Rights Association, lawyers, trade unionists and senior members of political parties. The defendants were convicted on the basis of articles of Law 2911 on meetings and Public Demonstrations to sentences ranging from one to three years. Among those convicted of ‘resisting dispersal by violent means’ (article 32/3) were Dr Alp Ayan (a psychiatrist at the HRFT) and Ms Günseli Kaya (Member of the General Board of the HRFT). Amnesty International considers that the sentences of Alp Ayan and Günseli Kaya to 18 months respectively represents a particularly harsh application of Law 2911 on meetings and Public Demonstrations, and that Dr Alp Ayan

and Ms Gunseli Kaya were exercising their legitimate right to peaceful assembly and acting in their capacity as human rights defenders.” [12f] (p1)

6.446 As noted in the USSD 2004 “The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana and served as a clearinghouse for human rights information. “ [5c] (Section 4)

6.447 The USSD 2004 further reported that “In March [2004], prosecutors dropped a case against the members of the HRF Executive Board on charges of translating HRF reports into English and distributing them without permission, soliciting donations on the Internet, and encouraging protestors to engage in hunger strikes by providing treatment to ill strikers. If convicted, the board members would have been forced to resign.” [5c] (Section 4)

Mazlum-Der

6.448 According to Amnesty International (December 2003)

“The Turkish human rights group Mazlum Der- whose full name in Turkish translates as ‘The Organisation for Human Rights and Solidarity with Oppressed People’ – was founded on 24 January 1991 in Ankara. Independent of the state and political parties or groups, it aims to defend and support human rights for all people both in and outside Turkey....The organisation has found itself targeted for unfounded allegations of links with armed Islamist groups.” [12c] (p1)

6.449 The Netherlands Ministry of Foreign Affairs (January 2002) reported that “Mazlum-Der also encounters opposition on the part of the authorities from time to time. For instance, in January and May 1999 the regional offices in Sanliurfa and Malatya were closed indefinitely. The office in Sanliurfa re-opened at the end of 2001.” [2a] (p72)

6.450 Amnesty International (December 2003) reported that

“On 1 May 2003 a court in Turkey confirmed that [Ozkan Hophanly the former chair of the local branch of Mazlum-Der in Malatya] should be imprisoned for fifteen months for attempting to participate in demonstrations in April and May 1999 while he was deputy chair of the branch.... Amnesty International consider him a prisoner of conscience imprisoned for his activities as a human rights defender.” [12c] (p1-2)

6.451 As stated in the general information section of Mazlumder website (accessed on 23 March 2005) “Mazlumder is not a politic organization but an organization defending freedom expression for all kind of politic views and thoughts. Mazlumder supports all activities by anyone as long as they respect human rights. Mazlumder opposites all kind of human right violations committed by anyone.” [82b]

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State of Emergency

6.452 A state of emergency (in Turkish: Olaganüstü Hal, often abbreviated to OHAL) [2a] (p53) applied in some south-eastern Turkish provinces from the mid-1980s until November 2002. [43] (see detailed list with dates in Annex D).

6.453 According to the European Commission 2003

“The state of Emergency in the two remaining provinces of Diyarbakir and Sirnak was lifted on the 30 November 2002 putting an end to almost 15 years of emergency rule in the East and Southeast of Turkey. After the lifting of the state of emergency, budgets, assets and personnel of Administration were transferred to Governorships. With a government decree in February 2003, a number of new Governors were appointed in the region.” [71b] (p38-39)

6.454 The European Commission 2003 continued “In April [2003] the Constitutional court annulled the Law Decree 285 of the Emergency Rule Administration Law, which prevented judicial recourse against decisions of the emergency governor.” [71b] (p39)

6.455 According to the European Commission 2004 “Overall the situation in the East and Southeast of the country, where people of Kurdish origin mostly live, has continued to improve gradually since 1999, both in terms of security and the enjoyment of fundamental freedoms. The emergency rule has been lifted and the return of the internally displaced persons (IDPs) has continued. Nevertheless, the situation of IDPs remains critical.” [71c] (p50)

6. 456 The EC report 2004 continued “Despite a general improvement in the situation in the Southeast, the security threat has increased since the Kongra-Gel (formerly PKK) announced the end of the ceasefire in June 2004. Terrorist activities and clashes between Kongra-Gel militants and the Turkish military have been reported.” [71c] (p50)

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BLOOD FEUDS

6.457 According to research conducted by the Immigration and Refugee Board in Canada in July 2000 “ ‘Kan davasi’ or blood feuds are an extinct, or nearly extinct, practice in Turkey. However, the IRB also reported the Turkish Ministry of Foreign Affairs assertion that “Murders among the people of the region are often committed for personal reasons, blood feuds or other reasons”. [7a]

6.458 The Netherlands Ministry of Foreign Affairs 2002 states that “In south-eastern Turkey, the social fabric is such as to entail blood feuds and forms of traditional dispute settlement and rough justice. Kurdish clan customs result in frequent loss of life in vendettas, against which the local Turkish authorities cannot always provide effective protection.” [2a] (p41)

6.459 In comments submitted to the Advisory Panel on Country Information in September 2004 UNHCR stated that, blood feuds may occur in other non-conservative, conservative areas or in urban areas amongst people who are not integrated into urban life but there is no report on this issue. [18a] (p8)

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Annex A: Chronology of Events

September 1980: Military Coup

November 1982: New Constitution was approved by a referendum with a 91% majority.

April 1983: New law on political parties. Political parties could now be formed under strict rules, but all political parties disbanded in October 1981 remained proscribed.

November 1983: Parliamentary rule was restored with the 6 November General Election.

1984: The PKK, led by Abdullah Öcalan, launched a violent guerrilla campaign against the Turkish authorities in the south-eastern provinces.

November 1987: The first free elections since the 1980 military coup. Turgut Özal elected Prime Minister.

November 1989: Turgut Özal succeeded General Kenan Evren as President.

1990: Early 1990 saw a sharp increase in urban terrorism committed by left and right-wing groups.

January 1991: National Assembly gave permission for Allied Forces to use Turkish air bases in the conflict against Iraq.

April 1991: Anti-Terror Law passed by National Assembly.

December 1992: The Judicial Reform Package (CMUK) became law.

March 1993: The PKK declared a cease-fire for the period between 20 March and 15 April 1993.

April 1993: PKK extended cease-fire indefinitely. President Turgut Özal died of a heart attack.

May 1993: Suleyman Demirel elected as President. PKK cease-fire ended.

July 1993: Hotel fire in Sivas started by Muslim fundamentalists killed 37 people.

March 1994: The government dismissed a call for a ceasefire made by PKK leader Abdullah Öcalan.

December 1994: Ankara State Security Court passed sentence on 86 people convicted of involvement in the hotel fire in Sivas in July 1993.

March 1995: Gunmen fired on 4 coffee-houses in the mainly Alevi district of Gaziosmanpasa in Istanbul, killing 2 and wounding 20 others. Residents came out onto the streets to protest and 15 demonstrators were killed and over 200 injured as they clashed with police. Unrest spread to Ankara and during further clashes in Istanbul 4 more demonstrators died.

October 1995: The Turkish Parliament accepted changes to the Anti-Terror Law, allowing more freedom of intellectuals, lawyers and politicians convicted for publicly demanding greater rights for Kurds. The changes allowed for reduced jail terms or freedom for those already convicted under the law.

December 1995: General Election to an enlarged 550 member parliament.

June 1996: The Refah (Welfare) Party leader Necmettin Erbakan became Turkey's first Islamist Prime Minister in a coalition with the DYP.

February 1997: The military-dominated National Security Council demanded a government crackdown on religious extremism.

May 1997: Chief prosecutor opened case to close Refah (Welfare) Party. The government lost its absolute majority in parliament as a former minister resigned from DYP to follow other defectors.

June 1997: Erbakan announced resignation. President Demirel appointed

Mesut Yilmaz, leader of the main opposition ANAP to set up government.

Demirel approved the government with Yilmaz as Prime Minister.

January 1998: Constitutional Court issued verdict resulting in the closure of the Refah (Welfare) Party.

March 1998: The newly formed Virtue Party became the largest political group in parliament, with 140 MPs, after most former Refah MPs join Virtue.

January 1999: Chief Prosecutor of the High Court of Appeals filed a suit against HADEP in the Constitutional Court calling for its closure and citing an "organic relationship" between HADEP and the PKK.

February 1999: Abdullah Öcalan was captured by Turkish Special Forces and returned to Turkey where he was detained.

April 1999: In the General Election the Democratic Left Party (DSP) won the largest number of seats, closely followed by the Nationalist Action Party (MHP).

June 1999: Abdullah Öcalan was found guilty of treason, and held personally responsible for the deaths of thousands of people who were killed in the PKK's violent struggle against the Turkish State. He was sentenced to death.

August 1999: A major earthquake (7.4 on the Richter scale) hit north-western Turkey. The official death toll was 17,840, but there were no reliable figures for the number of people missing or unaccounted for.

September 1999: PKK announce unilateral ceasefire.

November 1999: An earthquake measuring 7.2 on the Richter scale hit north-west Turkey. At least 737 people died.

January 2000: The Government agreed to respect an injunction from the European Court of Human Rights calling for the suspension of Öcalan's execution, pending his appeal to the Court.

May 2000: The reformist judge Ahmet Necdet Sezer was elected President.

December 2000: During Government action to break up prisoner hunger strikes and violent protests against small-cell "F type prisons, 31 prisoners and two security officials were killed.

June 2001: The Constitutional Court banned the main opposition party Fazilet (Virtue Party) for undermining Turkey's secular order.

October 2001: The Turkish Parliament approved several amendments to the Constitution, notably to articles concerning the use of the Kurdish language. The amendments were intended to facilitate Turkey's accession to the EU.

February 2002: Law No. 4744 (the so-called "Mini-Democracy Package"), adjusting some Turkish laws to the October 2001 constitutional amendments, was adopted by the Turkish Parliament.

March 2002: Law No. 4748: further reform package.

August 2002: The Turkish Parliament adopted a 14-point reform package, which abolished the death penalty in peacetime, allowed for broadcasting and education in Kurdish, and decriminalised criticism of the military and state organisations. Law No. 4771.

November 2002: General election the AKP won two-thirds of the seats. President Sezer subsequently appointed AKP Deputy Leader Abdullah Gül as Prime Minister.

December 2002: The Turkish Government passes the fourth reform package which changes the law on political parties allowing Tayyip Erdogan to become Prime minister.

January 2003: The Turkish Government passes the fifth reform package allowing Turkish citizens who are found to have been denied a fair trial by the ECtHR to be retried in Turkey.

March 2003: The Constitutional Court banned HADEP. Following his entering Parliament after his victory in a by-election, AKP leader Recep Tayyip Erdogan was appointed Prime Minister.

May 2003: An earthquake measuring 6.4 on the Richter scale hits the eastern province of Bingol. 177 people are killed.

July 2003: The Turkish Parliament passes the sixth reform package aimed at improving human rights.

August 2003: The Turkish parliament passes the seventh reform package, which among other things limits the influence and power of the military.

September 2003: The PKK/KADEK announced an end to their four year cease-fire with the Turkish Government.

November 2003: On the 15 November 2003 two suicide bomb attacks were carried out against two synagogues in Istanbul killing at least 24 people and wounding more than 300. On the 20 November two further suicide bombings were carried out one against the British Consulate and the other against the headquarters of the British based HSBC bank in Istanbul.

March 2004: Local elections were held and were won overwhelmingly by the ruling AKP.

May 2004: passage of constitutional reform package.

June 2004: Four Kurdish deputies (Leyla Zana, Hatip Dicle, Selim Sadak and Orhan Dogan) released from Prison. First official broadcasts in Kurdish language take place.

September 2004: The Turkish parliament had approved reforms to the penal code.

October 2004: European Commission report gives the go ahead for talks to begin on Turkey's accession to the European Union.

December 2004: The EU offers to begin membership talks with Turkey with 3 October 2005 given as a start date.

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Annex B: Parties which contest Parliamentary Elections

(See also Section 4 on General Election 2002)

Further information on political parties in Turkey can be found on

<http://www.electionworld.org/turkey.htm> [79] and

<http://news.bbc.co.uk/1/hi/world/europe/2165837.stm#top> [66ar]

Adalet ve Kalkinma Partisi (AKP) (Justice and Development Party).

www.akparti.org.tr Founded 2001 by former members of the banned Fazilet (Virtue Party). Islamist-orientated. Current Govt after victory in November 2002 elections. Its leader is Recep Tayyip Erdogan, who states that AKP is a synthesis of Islam and democracy without any conflict of interest, but is also conservative and democratic. [1a][3][66b][66c]

Anavatan Partisi (ANAP) (Motherland Party). www.anap.org.tr Founded 1983.

Supports free market economic system, moderate nationalist and conservative policies, rational social justice system, integration with the EU, and closer ties with the Islamic world. Chair. Ali Talip Ozdemir. Sec.-

Gen. Yasar Okuyan. [1a][41][61b]

Aydinlik Türkiye Partisi (ATP) (Enlightened Turkey Party). www.atp.org.tr

Centre-right. Leader Tugrul Turkes. On 8 September 2002 formed an alliance with the DYP for the forthcoming general election. [36h]

Bagimsiz Türkiye Partisi (BTP) (Independent Turkey Party). [30c]

Büyük Birlik Partisi (BBP) (Great Unity Party). www.bbp.org.tr Founded 1993.

Chair. Muhsin Yazicioglu. [1a]

Cumhuriyet Halk Partisi (CHP) (Republican People's Party). www.chp.org.tr

Founded 1923 by Kemal Atatürk, dissolved in 1981 and reactivated in 1992.

Merged with Sosyal Demokrat Halkçı Parti (Social Democratic Populist Party) in February 1995. Left-wing. Leader Deniz Baykal. Sec.-Gen. Tarhan Erdem.

[1a]

Değişen Türkiye Partisi (DEPAR) (Changing Turkey Party). Founded 1998.

Chair. Gökhan Çapoglu. [1a]

Demokrasi ve Baris Partisi (DBP) (Democracy and Peace Party). Founded

1996 to advocate Kurdish autonomy. Pro-Kurdish. Leader Refik Karakoç. [1a]

Demokrat Partisi (DP) (Democratic Party). Founded Nov. 1992. Chair. Yalçın

Koçak. [30c]

Demokrat Türkiye Partisi (DTP) (Democratic Turkey Party). www.dtp.org.tr

Founded Jan. 1997. Leader Ismet Sezgin. [1a]

Demokratik Halk Partisi (DEHAP) (Democratic People's Party). Founded

1997. DEHAP states that it is not organised on an ethnic base, and is not a

solely Kurdish party; it is a party of Turkey, and wishes to embrace all the

people of Turkey. [24b] In early September 2002 HADEP, EMEP and SDP

(Socialist Democracy Party) decided to unite under the roof of DEHAP at the 3

November 2002 general election. [31] Chairman Tuncer Bakirhan, re-elected in

January 2005. [69]

Demokratik Sol Partisi (DSP) (Democratic Left Party). www.dsp.org.tr

Founded 1985. Centre-left. Draws support from members of the former

Republican People's Party. Chair. Bülent Ecevit. Sec.-Gen. Zeki Sezer. [1a]

Doğru Yol Partisi (DYP) (True Path Party). www.dyp.org.tr Founded 1983. Centre-right. Replaced the Justice Party (founded 1961 and banned in 1981). Chair. Mehmet Agar [51]. Sec.-Gen. Nurhan Tekinel. [1a][41]

Emegin Partisi (EMEP) (Labour/ Labourers Party). www.emep.org Founded 1996. Stalinist. Legal wing of TDKP. Gained 0.17% of the national vote in the April 1999 general election. Chair. Abdullah Levent Tüzel. Publications - "Evrensel", "Özgürlük Dünyası". In early September 2002 HADEP, EMEP and SDP (Socialist Democracy Party) decided to unite under the roof of DEHAP at the 3 November 2002 general election. [1a][31][52a]

Genç Parti (GP) (Young Party). Founded recently by Cem Uzan, a Turkish businessman. Allegedly espouses a xenophobic brand of nationalism. [23c]

Hak ve Özgürlükler Partisi (HAK-PAR) (Rights and Freedoms Party) Founded February 2002. A central issue in its manifesto aim of establishing democracy in Turkey is the resolution of the Kurdish question. Is facing a closure case on charges that its statute and programme contain elements contrary to the "indivisible unity of the State and the nation". Head is Abdulmelik Firat, a well-known Kurd and a former long-serving MP. [74][71a]

İşçi Partisi (İP) (Workers' Party). www.ip.org.tr Founded 1992. Maoist, nationalist. Chair. Dogu Perinçek. [1a]

Liberal Demokratik Parti (LDP) (Liberal Democratic Party). Founded 1994. Observer member of Liberal International. Chair. Besim Tibuk. [1a]

Millet Partisi (MP) (Nation Party). Founded 1992, as successor to the centre-right Reformist Democracy Party (İDP), itself descended from the original MP. Chair Aykut Edibali. [1a]

Milliyetçi Hareket Partisi (MHP) (Nationalist Action Party). www.mhp.org.tr Founded 1983. Formerly the Conservative Party. Leader Devlet Bahçeli (resigned in aftermath of 2002 general election). Sec.-Gen. Koray Aydın. [1a][41]

Özgürlük ve Dayanışma Partisi (ÖDP) (Freedom and Solidarity Party). www.odp.org.tr Founded 1996. Radical left. Environmentalist. Leader Ufuk Uraz. [1a]

Özgür Toplum Partisi (OTP) (Free Society Party). Founded June 2003. Leader Ahmet Turan Demir. [1a]

Saadet Partisi (SP) (Felicity/Happiness/Contentment Party). www.saadetpartisi.org.tr Founded 2001 by the traditionalist wing of the banned Fazilet (Virtue Party). Islamist. Leader Recai Kutan. Mr Kutan said that the SP would not challenge the principles of the secular state but would seek to further religious rights, including legalisation of the wearing of Islamic headscarves in schools and public offices. In February 2004, the Constitutional Court ordered the Felicity Party to stop using the abbreviation "SP," which was the abbreviation used by the banned Socialist Party. [1a][3][5c]

Toplumcu Demokratik Partisi (TDP) (People's Democratic Party) Founded January 2002 by Sema Piskinsüt, former Parliamentary Human Rights Commission Chairperson. [23b]

Türkiye Komünist Partisi (TKP) (Turkish Communist Party). www.tkp.org.tr In November 2001 the Socialist Power Party (Sosyalist İktidar Partisi, SIP), which was founded in 1981, changed its name to the Turkish Communist Party, although under the Political Parties Law it is forbidden to establish a party with the word "communist" in its name. [1a][30a]

Yeniden Dogus Partisi (YDP). (Rebirth Party). Founded 1992. Right wing. Leader Hasan Celal Güzel. [1a] [30b]

Yeni Parti (YP) (New Party). Founded 1993. Leader Yusuf Bozkurt Özal. [1a]

Yeni Türkiye (YTP) (New Turkey). Founded July 2002 by Ismail Cem, and comprised of former DSP politicians. Based on social democratic principles. Intends to push aggressively for EU membership. [1a][38b]

Yurt Partisi (YP) (Homeland Party). Founded 2002. Leader Saadettin Tantan. [24a]

Now banned

Fazilet Partisi (FP) (Virtue Party). Founded 1997, banned June 2001. Fazilet replaced Refah Partisi (Welfare Party), which was dissolved by the Constitutional Court. Islamic fundamentalist. Interest in free market economy. Leader Recai Kutan. [1c]

Halkin Demokrasi Partisi (HADEP) (People's Democracy Party). Founded 1994. Pro-Kurdish nationalist party. Chairman Murat Bozlak. [1a] On 20 September 2002 Mr Bozlak was barred from running in the November 2002 general election because of his conviction in the past for sedition. [66b] In March 2003 HADEP was banned by the Constitutional Court on the grounds that it aided and abetted the PKK. [63c]

Refah Partisi (RP) (Welfare Party). Founded 1983, closed by a Constitutional Court ruling in January 1998 that it had become the focal point of anti-secular activity. Islamic fundamentalist. Chair Prof. Necmettin Erbakan. [1b]

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Annex C: Main Illegal Political Organisations

IMPORTANT. This annex consists of the names of both legal and illegal organisations. Those organisations which are known to be illegal have this fact recorded in their entry below. It would not be possible to have a fully comprehensive list of illegal parties, because of their constantly changing and clandestine nature.

Information on the current situation regarding leftist Parties in Turkey can be found on www.broadleft.org/tr.htm [52a] and <http://www.electionworld.org/turkey.htm> [79]

The Turkish State sees three main threats: militant Kurdish nationalism/separatism; militant Marxist-Leninist groups; and armed radical Islamic movements. [2a]

Brief glossary

- cephe = front
- devrimci = revolutionary
- emek = labour
- halk = people
- hareket = movement
- işçi = worker
- köylü = peasant, villager
- kurtuluş = liberation
- örgüt = organisation, association
- özgür = free
- özgürlük = freedom, liberty

Aczi-Mendi Group. Radical Islamic group. Founded by Müslüm Gündüz in Elazığ in 1985. The meaning of Aczi-Mendi is the "Sect of the Helpless Servants of Allah". All the group's members dress in the same style, with black robes, turbans, and baggy trousers, and they carry sceptres. They hold their meetings in Elazığ and in dervish lodges, which they have established in different cities. Dervish convents in Elazığ, Gaziantep and İzmir have been closed by court order. [65]

Akabe. A radical Islamic group. Author Mustafa Islamoglu leads it. The legal branch of the group is AKEV (Akabe Education and Culture Association). [65]

ARGK. See **PKK**.

Ates Hirsizi (Fire Thief). Formed in 1993. Anarchist. Publication - "Ates Hirsizi". [52a]

BCH (Independent Republic Movement) (Bağımsız Cumhuriyet Hareketi) [52b]

BDGP (United Revolutionary Forces Platform) (Birleşik Devrimci Güçler Platformu (name in Turkish); Platforma Hezen Soresgeren Yekgirti (name in Kurdish). Founded 1998. Radical left. [52b]

BP/KK-T (Bolshevik Party / North Kurdistan - Turkey) (Bolşevik Partisi / Kuzey Kürdistan - Türkiye) Illegal. Formed 1981 as TKP/ML (Bolşevik). Ex-Maoist, Stalinist. Publications - "Bolşevik Partizan", "Roja Bolşevîk". [52b]

Ceyshullah (Army of Allah). Founded in Istanbul in 1995. Its aim is to bring about a theocratic regime in Turkey by "holy war". Between 1994 and 1999 the Turkish police conducted six operations against Ceyshullah, and

apprehended 33 members, as well as guns, pistols, bombs and other munitions. The members stated that they had been trained in Saudi Arabia and Afghanistan. [65]

Dev Sol See **DHKP-C**

Dev Yol (Revolutionary Path) (Devrimci Yol). See THKP/C. Founded 1975. Radical left. Part of ÖDP (see Annex B). Publications – "Bir Adim" (One Step), "Hareket" (Movement), "Devrimci Hareket" (Revolutionary Movement). [48] [18c]

Devrim Partisi-Kawa. See **PS-Kawa**.

Devrimci Gençlik See **DHKP-C**

Devrimci Halk Hareketi (Revolutionary People's Movement). Split of TKIP in 1999. Radical left. Publication - "Devrimci Halk" (Revolutionary People). [52a]

Devrimci Hareket (Revolutionary Movement). [52b]

Devrimci İşçi Partisi - İnsa Örgütü (Revolutionary Workers Party - Build up Organisation). Trotskyist. Publication - "Enternasyonal Bülten". [52a]

Devrimci Mücadele (Revolutionary Struggle). Founded 1977 as Devrimci Derleniş. Radical left. Publication - "Devrimci Mücadele". [52a]

Devrimci Sosyalist Yön (Revolutionary Socialist Direction) [52b]

DHKP-C / DHKP/C now known as the DHKC (Revolutionary People's Liberation Party - Front) (Devrimci Halk Kurtuluş Partisi - Cephesi).

<http://www.dhkc.net> [54] Illegal. Radical left. It was formed in 1993 as a splinter faction of **Dev Sol** (Devrimci-Sol, Revolutionary Left), which was founded in 1978 and which went out of existence following the split. The other splinter faction, known as THKP/C Devrimci Sol, is on hostile terms with DHKP/C, but constitutes a far smaller group in scale and significance. Although DHKP/C has long had a difficult relationship with the PKK, it has repeatedly expressed its solidarity with the Kurdish armed struggle.

DHKP/C seeks to overthrow the existing Turkish system of government by armed revolution and to replace it with a Marxist-Leninist state. Its terrorist operations are aimed in particular at the Turkish security forces and public figures, as well as at bodies seen by the group as "symbols of imperialism". An attack on a bank in Istanbul in September 1999 left 23 people injured. The authorities struck a major blow at DHKP/C in 1999, arresting 160 members and seizing a large quantity of arms and explosives. In August 2000 the police caught seven DHKP/C members trying to plant a bomb at an airforce base. DHKP/C was in action again in 2001 with various operations, including an attack on a police car on 10 April, in which a passer-by was killed and two police officers injured. The US State Dept. report for 2001 records that DHKP-C suicide bombers attacked police stations in Istanbul in January and September 2001, killing several police officers and civilians.

Many of those involved in the hunger strikes in Turkish prisons in late 2000 and early 2001 came from among DHKP/C's ranks. The group drummed up large-scale support throughout Europe for protests in connection with those events. In Turkey itself the protests included a bomb attack on a police station in Istanbul on 3 January 2001, following which the organisation announced that this was in retaliation for the deaths of 30 prisoners in a prison clearance operation. Turkey's Anatolia news agency reported that, according to a circular distributed to police stations in Istanbul, the organisation had planned further attacks. [2a] Ankara State Security Court prosecutor Talat Salk alleged in a 1999 court case that DHKP/C conducts its activities under the names of HÖP (Haklar ve Özgürlükler Platformu) (Rights and Freedoms Platform), the

outlawed Devrimci Gençlik (Revolutionary Youth), and TODEF (Türkiye Öğrenci Dernekleri Federasyonu) (Federation of Turkish Students and Youth Associations). [23a] Publications - "Yasadigimiz Vatan", "Devrimci Sol", "Kurtulus" (Liberation). [52a] In UK the DHKP-C has since 29 March 2001 been proscribed under the Terrorism Act 2000.

DHP (Revolutionary People's Party) (Devrimci Halk Partisi). Founded 1994.

Close to the PKK. Publication - "Alternatif" (Alternative). [52a]

Direnis Hareketi (Resistance Movement). Founded 1978 as THKP/C -

Üçüncü Yol. Radical left. Publication - "Odak". [52a]

Dördüncü Sol - Insa Örgütü (Fourth Left - Construction Organisation).

Trotskyist. Publication - "Son Kavga" (Last Fight). [52a]

DPG (Revolutionary Party Forces) (Devrimci Parti Güçleri). Radical left.

Publications - "Maya" (Ferment), "Parti Yolunda". Illegal. [52a]

DSIH (Revolutionary Socialist Workers Movement) (Devrimci Sosyalist İşçi Hareketi). Illegal. Radical left. Publication - "Kaldıraç" (Lever); İşçi Gazetesi [52a] [52a]

DSIP (Revolutionary Socialist Workers Party) (Devrimci Sosyalist İşçi Partisi).

Founded 1997. Legal. Trotskyist. Publication - "Sosyalist İşçi" (Socialist

Worker); Enternasyonal Sosyalizm. [52a]

EMEP See Annex B

ERNK. See **PKK.**

Gerçek (Truth). Publication – Gerçek. [52b] [52a]

Hareket (Movement). [52b]

HDÖ (People's Revolutionary Leaders) (Halkin Devrimci Öncüleri). Illegal. [48] [18c]

Hevgirtin Welatparez (Patriotic Union). [52a]

Hizb-I Kuran. See **Med-Zehra**

Hizbullah/Ilim Gruhu and **Hizbullah/Menzil Grubu.** Both are illegal.

Hizbullah/Hezbollah is a very shadowy Islamist group which originated in the 1980s in southeast Turkey. It advocates the establishment of an Islamic state by violent means. When a major Hizbullah leader was killed by PKK fighters in 1991, a difference of opinion emerged within the organisation as to whether the time was yet right to wreak revenge on the PKK, and also to take up arms in pursuit of its own objective. One faction, centring on the Menzil publishing house (and known as the Menzil group), took the view that the organisation was not yet sufficiently well-developed to pitch into armed struggle. The other, centred on the Ilim publishing house and known as the Ilim group, thought the time was ripe for armed revenge on the PKK. Its idea was as far as possible to let the Turkish State do the dirty work for it in combating the PKK. The Ilim group bore particular responsibility for the atrocities committed by Hizbullah. The group had an ideological aversion to Iran, which adhered to Shia Islam; the Ilim group was striving for a Sunni Islam state. When the Ilim group managed to kill some of the Menzil group's main leaders in 1996, the Menzil group disintegrated and faded away. Some former Menzil members then joined the Ilim group, and, from 1996, Hizbullah become synonymous with the violent Ilim faction. Rumours were rife that Hizbullah was at least tolerated by the security forces because it was fighting against a common enemy, and it has been held responsible for a large number of disappearances and killings. Its victims included a former DEP member of parliament, Mehmet Sincar, and an Islamic feminist writer, Konca Kuris. President Demirel denied allegations that there were links between Hizbullah and Turkish officialdom, while the

general staff of the armed forces issued an angry statement condemning such allegations as slander.

From 1997 onwards the Turkish authorities began to take tougher action against Hizbullah, with a reported 130 supporters arrested in 1998, 250 in 1999 and 3300 in 2000. In a raid on a home in the Üsküdar area of Istanbul on 17 January 2000 Hüseyin Velioglu, Hizbullah's founder and leader, was killed, and two other people arrested. On the basis of evidence found in the home, many other premises were searched, revealing the bodies of thirteen missing businessmen. With many more corpses being uncovered in the following months, the public prosecutor was able to press charges against 21 people on 156 counts of murder in the major Hizbullah trial which opened on 10 July 2000. During an interrogation, a Hizbullah suspect reportedly confessed to killing moderate Islamic scholar Konca Kuris in the early 1990s. In November 2002 an appeals court acquitted five defendants and sentenced the others to prison terms ranging from life to 45 months. The security forces' many operations against Hizbullah have inflicted heavy setbacks on it, and the number of bombings carried out by the group has fallen from 302 in the first eight months of 1999 to 94 in the corresponding period of 2000. However, the provincial governor of Diyarbakir stated in October 2000 that, in spite of those serious setbacks, Hizbullah could certainly not yet be considered to have been eliminated. There are said to be many teachers and religious officials involved in the organisation. As of February 2000, Hizbullah was said to have had in Turkey some 20,000 members, who were organised in tight cells and knew a few of their fellow members because they were sworn to strict secrecy. They were said to operate in teams of two or three people, who "would stalk their victim before one member of the group carried out the execution by shooting the target in the neck with a single bullet, while the other kept a watch. A third militant may have assumed the duty of protecting the executioner." Up to the time of the security forces' major action in January 2000, there were no known instances of Hizbullah's having targeted the authorities in its operations. Since then, however, armed incidents have taken place. On 11 October 2000 in Diyarbakir a policeman was killed in a gunfight with Hizbullah, which has also been linked with the shooting dead of the province's chief of police, Gaffar Okkan, and five of his officers in January 2001. In April 2001 a Hizbullah member was arrested on suspicion of involvement in that attack. The USSD 2004 reported that the Government continued to detain persons, particularly in the southeastern province of Batman, on suspicion of links to Hizballahan that 1,500 political prisoners were alleged members of Hizballah or other radical Islamist political organizations. On 5 February 2005 Turkish Daily News reported that, acting upon intelligence that the group was trying to regroup the security forces had arrested 22 suspected Hizbullah militants in 18 provinces.

[2a] [5a] [5c] [7b] [23r] [32b] [48] [65]

Hizbullah Vahdet. Radical Islamic group, which centred on the Vahdet publisher in the 1980s. The group's leader is Abdulvahap Ekinici. The group's legal foundations are Davet Education and Culture Association and Abdulkadir Geylani Trust. The group publishes a periodical called "Vahdet".

[65]

HÖP See **DHKP-C**

IBDA-C (Islamic Great East Raiders - Front) (Islami Büyük Dogu Akincilar Cephesinia). Illegal Iranian-backed fundamentalist group which seeks the

establishment of an Islamic republic based on strict Shariah or religious law. It attacks the PKK as well as the Turkish establishment.

IBDA-C is reportedly organised in small, isolated cells. Members organise independently without any hierarchical authority. Usually each cell does not have information about another cell's actions. There are two different types of cell. One type carries out propagandist actions, publishing books and periodicals, and organising meetings, conferences or exhibitions. The other type includes such cells as "Ultra Force", "Altinordu", "Lazistan", and "Union of Revolutionist Sufis". IBDA-C is active in publication, and has many bookstores, websites and print-houses. Meetings are held in bookstores. Some of its periodicals are "Ak-Dogus", "Ak-Zuhur", "Akin Yolu", "Taraf", and "Tahkim". IBDA-C has been linked with a number of terrorist attacks, especially in the early 1990s. It frequently makes use of explosives and Molotov cocktails in its attacks, and has often targeted banks, casinos, Christian churches and Atatürk monuments. IBDA/C has been linked with the fatal bomb attack in October 1999 on a secular professor, Ahmet Taner Kislali, who was best known as a journalist for the Cumhuriyet newspaper. In December 1999 and February 2000 IBDA/C members sparked off bloody clashes in Metris prison when they attempted, by armed force, to prevent guards from entering their cell. In the December riot, 54 soldiers were injured and 100 hostages taken by IBDA/C, which also laid claim to the fatal attack on two police officers in Istanbul on 1 April 2001. Proceedings were brought against IBDA/C's leader, Salih Izzet Erdis, known by the nom de guerre Salih Mirzabeyoglu, before Istanbul State Security Court in February 2000, seeking to have the death penalty imposed on him for leadership of an illegal organisation working for the establishment of an Islamic state. On 3 April 2001 he was sentenced to death by that court. [2a][48][34][65]

İHÖ (Islamic Movement Organisation) (İslami Hareket Örgütü). Illegal. [48]

İlerici Gençlik (Progressive Youth) [52b]

İMO (Islamic Movement Organisation). Its goal was to found an Islamic State in Turkey. Members were trained in Iran. Usually high level militants were sent abroad for training in guerrilla tactics, using weapons, and producing bombs. İrfan Çağrı, the director of the operations team, was caught by police in Istanbul in 1996. After the command and control of İMO had been weakened, İMO collapsed, and today most of its members are in prison. [65]

İşçi Demokrasisi (Workers Democracy). Founded 1998; split of DSİP.

Trotskyist. Publication - "İşçi Demokrasisi". [52a]

Jerusalem Fighters See **Kudüs Savaşçıları**

KADEK See **PKK**

Kaplıncılar /Sözde Hilafet Devleti. Illegal. [48]

KDB (Communist Revolutionary Union) (Komünist Devrimci Birlik). Illegal. [48]

KDH (Communist Revolutionary Movement) (Komünist Devrim Hareketi).

Illegal. [48] [52a]

KDH/L (Communist Revolutionary Movement/Leninist) (Komünist Devrim Hareketi/Leninist). Illegal. Publication – "Köz". [52b] [52a] [48]

KHK See **PKK**

Kongra-Gel See **PKK**

KKP (Kurdistan Communist Party) (Kürdistan Komünist Partisi). Illegal. [48]

Kongreya Azadî û Demokrasiya (Kurdistan Freedom and democracy Congress) [52b]

KP(İÖ) (Communist Party (Build Up Organisation)) (Komünist Partisi (Insa Örgütü)). Illegal. Ex-Maoist, Stalinist. Split of MLKP in 1995. Publication - "Halkın Birliği". [52a] [48]

KSB (Communist Fighters Union) (Komünist Savaşçılar Birliği). Publication – "İsçi Davası". [52a]

Kudüs Savaşçıları (Jerusalem Fighters). Islamic splinter group, said to have links with Iran. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. [2a]

KUK (Kurdistan National Liberationists) (Kurdistan Ulusal Kurtuluscuları). Marxist-Leninist. Established 1978. Its initial aim is to establish an independent Kurdistan in east and southeast Turkey, and then to unite this republic with territories in which Kurds live in Iran, Iraq and Syria. KUK-MK leaders are Dasraf Bilek (General Secretary), Sait Özsoy, Vasfi Özdemir, Mahfuz Yetmen, Sevkettin Kaçmaz, Lütfi Baksı. KUK-SE leaders are K. Basibüyük, Yalçın Büyük (Gen. Sec.), Abdurrahman Bayram, Abdurrahman Esmer, Yasemin Çubuk, Zeynel Abidin Özalp, and Yusuf Ahmet Bartan. [65]

M-18 See **MLKP**

Malatyalılar (From Malatya/Malatyaites) This radical splinter group, also known as Safak-Degisim, advocates establishment of an Islamic state. The group first attracted attention at demonstrations against the ban on wearing the veil, in 1997 and 1998, and related disturbances in Malatya. Apart from Malatya, the organisation is reported also to be active in Istanbul, Gaziantep, Erzurum and Kayseri. In October 2000 the security forces carried out a large-scale operation against the group, arresting some 250 people in 28 provinces. Although there have (as of May 2001) been no known Malatyalılar acts of violence, a large number of arms were found in that swoop by the security forces. [2a] The group's leader is Zekeriya Sengöz. The group's leading members come from the city of Malatya in southeast Turkey. The group publishes "Degisim" (Metamorphosis) periodical. In addition, it has founded a legal trust named "Islamic Solidarity Trust", which is active in Istanbul. The group calls itself "Safak" (Down Group), and in university circles they use the signature of "Muslim Youth". [65]

Marksist Tutum (Marxist Attitude). [52b]

Mezhepsizler Grubu. Illegal. [48]

Med-Zehra, also called **Hizb-i Kuran** (The Party of Q'uran). A radical Islamist group, named after the university, Medresetu'z-Zehra, which Said Nursi (who was the originator of the Nurcu movement (probably the most important religious movement in Turkish Kurdistan), and who died in 1969) wished to establish in Kurdistan. Med-Zehra is an important representative of Kurdish Islamic movements. It opposes the Turkish Government, and refuses to employ constitutional methods. [7c]

MIB (Marxist Workers League). (Marksist İşçi Birliği). Trotskyist. [52a] [52a]

MLKP (Marxist Leninist Communist Party) (Marksist Leninist Komünist Partisi). Illegal. Founded 1995; merger of TKP/ML - Hareketi, TKIH, TKP/ML(YİÖ). Stalinist. It seeks the armed overthrow of Turkey's present political system. It also sees itself as representing the Kurdish community, and wants to throw off the "fascist colonial yoke" by means of armed struggle, having its own armed wing, known as M-18. In May 1998 MLKP abducted Tacettin Asci, treasurer of the Bursa branch of the Turkish Human Rights Association, and Ahmet Aydın, and on 7 June 1998 it issued a statement

saying that the two had been "executed" as police informers. Amnesty International said that it was appalled to learn of the killings, and added that the fact that the bodies had not been recovered suggested that the victims may have been interrogated under torture by their captors. Amnesty urged that the bodies be surrendered, and also that those responsible for the murders be brought to justice. Publications - "Partinin Sesi", "Atilim"

(Progress); Teori'de; Dogrultu. [2a][12a] [48] [52a] [52b] [52a]

MLSPB (Marxist-Leninist Armed Propaganda Unit) (Marksist Leninist Silahlı Propaganda Birliği). Illegal. Founded 1975 as split from THKP/C; political military. Radical left. Publication - "Barikat" (Barricade). [48]

Müslüman Gençlik Grubu. (Muslim Youth Group). Illegal. [48]

PADEK (Freedom and Democracy Party of Kurdistan) (Partiya Azadî û Demokrasî ya Kurdistanê (name in Kurdish); Kürdistan Özgürlük ve Demokrasi Partisi (name in Turkish)). Founded 2000 by faction of PYSK (Kurdistan Sosyalist Birlik Partisi). Left, Kurdish nationalist. [52b] [52a] [79]

PDK (Kürdistan Demokrat Partisi). Illegal. [48]

PDK/Bakur (Democratic Party of Kurdistan/North) (Partî Demokratî Kurdistan/Bakur (name in Kurdish); Kürdistan Demokrat Partisi/Kûzey (name in Turkish)). Illegal. Founded 1992 as PDK/Hevgirtin. Left, Kurdish nationalist. It aims to unite Kurds living in Iran, Iraq, Syria and Turkey under the flag of an independent Socialist Kurdistan Republic. Publication - "Dênge Bakur". [52a] [48] [65] [79]

PDK(T) (Democratic Party of Kurdistan (Turkey) (Kürdistan Demokrat Partisi (Türkiye) (name in Turkish); Partîya Demokrat a Kurdistan (Türkiyê)(name in Kurdish). Left, Kurdish nationalist. Publication - "Xebat". [52a]

PIK (Islamic Kurdistan Party) (Partiya Islamiya Kurdistan). Founded 1979. PIK's main aim is to establish an Islamic state, and its members see this as a holy mission. Its strategy is allegedly to create chaos in Turkey, to destabilise government institutions, to start a nationwide revolt, and to establish an Islamic Kurdistan. It is active in eastern and southeastern Turkey, especially in Malatya. It has branches in Ankara and Istanbul. Leaders of the party include Prof. Dr. Muhammad Salih Mustafa (Party President and General Emir/Governor), Osman Caner (Emir of Students and Youth) and Sukuti Evcim (Director of Youth. [65] [79]

PKK also known as **KADEK** and more recently **KHK or Kongra-Gel**

<http://www.kongra-gel.org/index.php?newlang=english> (Kurdistan Workers' Party) (Partîya Karkerên Kurdistan (name in Kurdish); Kürdistan İşçi Partisi (name in Turkish). www.pkk.org and www.kurdstruggle.org/pkk . Illegal. Founded on 27 November 1978. It advocates armed struggle both at home and abroad, to achieve an independent Kurdish state slicing through Turkey, Syria, Iraq and Iran, and launched the struggle in 1984. 57-member directorate. Its components include ERNK (the National Liberation Front of Kurdistan), the PKK's "popular front and propaganda division", and ARGK (the Kurdistan National Liberation Army), the PKK's "popular army". Leadership: Abdullah "Apo" Öcalan. The PKK's armed operations in south-eastern Turkey, starting in 1984 and peaking from 1990 to 1994, involved attacks on civilians (in many cases Kurdish) and military targets, causing very many deaths. The PKK was guilty of human rights violations, including murders, especially in rural parts of the south-east, but also in other areas. The victims were mainly Jandarma officers, mayors, teachers, imams, village guards and their families, reluctant

recruits, young villagers, refusing to fight for the PKK, and (former) PKK members acting as informants for the Turkish authorities. From the outset, the Turkish army took tough action against the PKK. The PKK attempted to make the south-east ungovernable, by systematically destroying economic and social infrastructure etc., and by deliberately polarising the local population. Many village schools were closed down, not least as a result of the PKK's policy, up until 1996, of killing schoolteachers. According to information from the Turkish authorities, a total of just over 23,000 PKK fighters and around 5000 members of the armed forces and security forces have been killed since 1987 in the conflict with the PKK. Just over 4400 civilians are reported to have been killed. The Injured number just over 11,000 armed forces and security forces members, and around 5400 civilians. No figures are given for injured PKK fighters. On 3 August 1999 Abdullah Öcalan called on PKK fighters to end their armed struggle and withdraw by 1 September to beyond Turkey's borders. On 1 September his brother Osman, a member of PKK's command council, announced that the PKK would do this with immediate effect. The extent to which Öcalan's call has been followed by PKK fighters can be seen from figures from the Turkish army high command in May 2000, showing only 500 out of 5500 PKK fighters still to be in Turkey. In the first five months of 2000, the number of clashes between the army and guerrillas had fallen to 18, as against 3300 at its peak in 1994 and 48 in 1999. There were few armed clashes in 2001, and a near absence of PKK violence in 2002. On 16 April 2002 the PKK announced that it had ceased activities and had regrouped as **KADEK**, the Kurdistan Freedom and Democracy Congress (Kürdistan Özgürlük ve Demokrasi Kongresi). The change of name did not affect the policy of the Turkish State towards members of the PKK/KADEK. Publication - "Serxwebûn" (written in Turkish). In UK the PKK has since 29 March 2001 been proscribed under the Terrorism Act 2000. [1a] [2a] [5a] [18c] [61a] [63a] [67] [52a] [48]

On the 29 May 2004 the BBC reported that Kongra-Gel declared that its five-year unilateral cease-fire would end in three days time (on the 1 June 2004) and that it would start to target Turkish security forces. [66z] In January 2005 the Turkish Daily News reported that, according to a report released by the Diyarbakir Human Rights Associations, the number of armed conflict between security forces and the Kurdistan's Workers Party (PKK/Kongra-Gel) increased. While in 104 people died and 31 were wounded in armed clashes in 2003, 219 people died and 126 were wounded in 2004. [23q]

See also section 4 on Conflict with the PKK (Partiya Karkeren Kurdistan - Kurdistan Workers' Party) and section 6.B on PKK/KADEK/Kongra-Gel and the conflict in the south-east.

PKK-DCS (PKK-Revolutionary Line Fighters) (PKK – Devrimci Çizgi Savaşçıları). [52b] [52a]

PKK/KKP (Communist Party of Kurdistan) (Partiya Komunistê Kurdistan (name in Kurdish); Kürdistan Komünist Partisi (name in Turkish)). Founded 1990 by Kurdish section of TKEP. Communist. Publication – "Dengê Kurdistan". [52a]

PNBK (National Platform of North Kurdistan) (Platforma Neteweyî ya Bakûrê Kurdistanê (name in Kurdish); Kuzey Kurdistan Ulusal Platformu (name in Turkish). Founded 1999. Left, Kurdish nationalist. Illegal. [52a]

PRK/Rizgari (Liberation Party of Kurdistan) (Partîya Rizgariya Kurdistan (name in Kurdish); Kürdistan Kurtulus Partisi (name in Turkish). Illegal. Founded 1976. Radical left, Kurdish nationalist. The party's aim is to establish an independent Kurdistan, and extend this to an independent United Socialist Kurdistan with territory which is at present part of Iran, Iraq, Syria and Turkey. Publications - "Rizgari", "Stêrka Rizgarî". [52a][48][65] [52a]

PRNK (National Liberation Party of Kurdistan) (Kürdistan Ulusal Özgürlük Partisi). Illegal. Probably disbanded. [48]

PS-Kawa (Revolutionary Party) (Partîya Sores). Illegal. Founded 1998 as split of PYSK (Kurdistan Sosyalist Birlik Partisi). [48] [52a]

PSK (Socialist Party of Kurdistan) (Partîya Sosyalist a Kurdistan (name in Kurdish); Kürdistan Sosyalist Partisi (name in Turkish)). Illegal. Founded 1974. Left, Kurdish nationalist. Its legal wing is the DBP (see Annex B). Publications - "Roja Nû", "psk-bulten". Leader Kemel Burkay [48]

PSK- (Kurdistan Revolutionary Party)(Devrimci Kürdistan Partisi) (Partiya Soresa Kürdistan). Illegal. [48]

Revolutionary Marxist League. Trotskyist. [52a]

RNK/KUK (Kürdistan Ulusal Kurtuluşçular). Illegal. [48]

RSDK (Socialist Democratic Organisation of Kurdistan) (Rêxistina Sosyalîst a Demokratîk a Kurdistanê (name in Kurdish); Kürdistan Demokratik ve Sosyalist Örgütü (name in Turkish). Split of PYSK (Kurdistan Sosyalist Birlik Partisi). [52a]

Safak-Degisim See **Malatyalilar**

SED (Social Ecological Transformation) (Sosial Ekolijist Dönüşüm). Green. Publication – Kara Toprak. [52a]

SEH (Socialist Labour Movement) (Sosyalist Emek Hareketi). Publication – "Siyasi Gazete" (Political Gazette). [52b] [52a]

Selam Grubu. Illegal. [48]

Selefi (from the Arabic "Salafi", referring to an Islamic revivalist movement which seeks to emulate the lives of the earliest Muslims). The organisation, which was established in 1993 by an imam, supports religious law. In raids in 1999, the Turkish authorities seized eight rocket rifles, one Kalashnikov, and 650 rounds of ammunition. The Turkish State considers the organisation to be terrorist. [22][30d]

SIP See **Sosyalist İktidar Partisi - Komünist Parti**

Sosyalist Alternatif (Socialist Alternative). Part of ÖDP (see Annex B). Trotskyist. Publication - "Sosyalist Alternatif". [52a]

Sosyalist İktidar Partisi - Komünist Parti (Party for Socialist Power – Communist Party). Founded 1993, Communist, legal, gained 0.12% of the national vote in the April 1999 general election. Changed its name in November 2001 to TKP (Türkiye Komünist Partisi) (Turkish Communist Party); it is unclear whether this is different from, or identical to, the TKP which is listed later in this annex. Gained 0.19% of the national vote in the November 2002 general election. Publications – "Sosyalist İktidar" (Socialist Power), "Sol" (Left). [30a] [52a]

Sosyalist Politika (Socialist Politics). Part of ÖDP (see Annex B). Publication - "Sosyalist Politika". [52a]

Sosyalizm İçin Kurtulus (Liberation for Socialism). Publication - "Kurtulus". [52b]

Spartaküs. Illegal. [48]

TAYAD (the Solidarity Association of Prisoners' Families) (Tutuklu ve Hükümlü Aileleri Yardımlasma Derneği). In January 2001 the headquarters and various branches in Istanbul of the TAYAD were closed after it had held weekly demonstrations over a period of months against the introduction of the new cell system in prisons. Various executive members were arrested. The authorities regard TAYAD as a cover for the revolutionary DHKP/C. The organisation was consequently proscribed for a few years in the early 1990s. [2a]

TDKP (Revolutionary Communist Party of Turkey) (Türkiye Devrimci Komünist Partisi). Illegal. Founded 1980. Ex-Maoist, Stalinist. Its legal wing is Emep (Labourers Party) (see Annex B). Publication - "Devrimin Sesi". [47] [52a]

TDP (Revolution Party of Turkey) (Türkiye Devrim Partisi). Illegal. Founded 1978, formerly TKP (Birlik). Radical left. Publication - "Hedef" (Target). [52a][48] [52a]

Tehvid-Selam Islamic splinter group said to have links with Iran. The group adopts Hizballahi ideas, and is closely related to the Hizballah and Menzil groups. It began to publish "Sehadet" (Testimony) and "Tehvid" (Unification) periodicals, and nowadays publishes "Selam" (Greeting, Salute), a weekly newspaper. Police operations in May 2000 brought the arrest of some members and the discovery of various arms caches. [2a][65]

THKP/C Acilciler (Turkish Peoples' Liberation Party and Front – The Urgent Ones) (Türkiye Halk Kurtulus Partisi/Cephesi Acilciler). Illegal. Probably disbanded. [52a][48]

THKP/C- Dev Sol (People's Liberation Party/Front of Turkey - Revolutionary Left) (Türkiye Halk Kurtulus Partisi/Cephesi - Devrimci Sol). Illegal. Founded 1993 as split of Dev Sol. Political military. Radical left. Publication - "Devrimci Çözüm" (Revolutionary Solution). [52a][48] [52b] [52a]

THKP/C- Dev Yol. Illegal. [48]

THKP-C/HDÖ (People's Liberation Party/Front of Turkey - People's Revolutionary Vanguard) (Türkiye Halk Kurtulus Partisi ve Cephesi - Halkin Devrimci Öncüleri). Founded 1977. Political military. Radical left. Publications - "Cephe" (Front, Façade), "Kurtulus" (Liberation), "Kurtulus Cephesi" (Liberation Front). [52a] [52b] [52a]

THKP/C-MLSPB (People's Liberation Party/Front of Turkey – Marxist Leninist Armed Propaganda Unit) (Türkiye Halk Kurtulus Partisi ve Cephesi – Marksist Leninist Silahlı Propaganda Birliği). Publication – "Barikat" (Barricade). [52b] [52a]

TIKB (Revolutionary Communists Union of Turkey) (Türkiye İhtilalci Komünistler Birliği). Illegal. Founded 1977. Political military. Ex-Maoist, Stalinist. Publications - "İhtilalci Komünist", "Orak-Çekiç", "Devrimci Proletarya", "Alinterimiz". [48] [52a]

TIKB - B (Revolutionary Communists Union of Turkey - Bolshevik) (Türkiye İhtilalci Komünistler Birliği - Bolşevik). Illegal. Split of TIKB. Radical left. Publication - "Devrimci Durus" (Revolutionary Attitude). [48] [52a]

TIKKO (Turkish Workers' and Peasants' Liberation Army) (Türkiye İşçi Köylü Kurtulus Ordusu or Türk İşçiler Köylüler Kurtulus Ordusu). Illegal armed resistance movement, which was set up in 1972 by TKP/ML. It advocates the violent overthrow of the Turkish government and abolition of the entire Turkish political system. Members (a maximum of several thousand people) are scattered in small cells throughout Turkey. The armed guerrilla units are used by both TKP/ML and TKP(ML) in common for their terrorist operations.

Amnesty International notes that in the early 1990s TIKKO and other organisations would frequently announce, that this journalist, or that Kurdish villager, had been "punished". Since then, the numbers of such killings have fallen notably. In September 2000 a police operation against TIKKO in Istanbul brought the arrest of the head of its local section. On 6 October 2000 a suicide squad attacked the military training college in the Harbiye district of Istanbul. TKP/ML also claimed responsibility for an attack on a police car on 11 December 2000, in which two policemen were killed. February 2001 saw two armed clashes between TIKKO and the security forces. The attack on a Jandarma general in Çorum on 22 March 2001 was said by the authorities to have been carried out by TIKKO, which reportedly itself on 28 March 2001 laid claim to the attack. [2a][12a] In June 2002 TIKKO reportedly abducted and killed Muharrem Hiz from Sirçali village, Tokat province. [9a] There used to be a division of labour between PKK and TIKKO guerrillas, with the PKK carrying on the combat in south-eastern Turkey and TIKKO in the Black Sea region. In October 1999 TKP/ML announced its complete disagreement with Öcalan's call to end the armed struggle. [2a][12a]

TIP (Workers Party of Turkey) (Türkiye İsci Partisi). [52a]

TKEP (Communist Labour Party of Turkey) (Türkiye Komünist Emek Partisi). Illegal. Founded 1980, part of ÖDP (Özgürlük ve Dayanısme Partisi - see Annex B). Communist. [48] [52a]

TKEP- Leninist (Communist Labour Party of Turkey - Leninist) (Türkiye Komünist Emek Partisi - Leninist). Illegal. Split of TKEP in 1990. Political military. Communist. Publications - "Devrimci Emek" (Revolutionary Labour), "Devrim İscin Mücadele Birliđi. [48] [52b] [52a]

TKIP (Communist Workers Party of Turkey) (Türkiye Komünist İsci Partisi). Illegal. Founded 1998. Ex-Maoist, radical left. Publications - "Ekim" (Sowing, Planting), "Kızıl Bayrak" (Red Flag) [52a][48] [52a] [72]

TKKKÖ (Turkey and North Kurdistan Liberation Organisation) (Türkiye ve Kuzey Kürdistan Kurtulus Örgütü). Illegal. [48]

TKP (Communist Party of Turkey) (Türkiye Komünist Partisi). Founded 1980 as TKP - İscinin Sesi. Communist. Publication - "İscinin Sesi" (Workers' Voice). [52a]

TKP/İS (Communist Party of Turkey/Workers Voice) (Türkiye Komünist Partisi/İscinin Sesi). Illegal. [48] [52a]

TKP- Kivilcim (Communist Party of Turkey - Spark) (Türkiye Komünist Partisi - Kivilcim). Illegal. Founded 1989 by Socialist Homeland Party (SVP). Communist. Publications - "Kivilcim" (Spark), "Zafere Kadar Direnis", "Yol" (The Way), "Widerstand". [48] [52b]

TKP/ML (Communist Party of Turkey/ Marxist Leninist) (Türkiye Komünist Partisi/ Marksist-Leninist). Founded 1972. Political military. Based on Maoist ideology. The party has suffered several divisions, with each faction claiming to be "the real party". In 1994 it split into two wings: a partisan wing, retaining the old name TKP/ML, and an Eastern Anatolian regional committee, assuming the almost identical name TKP(ML). Talks have been under way since late 1999 concerning reunification of the two wings. In 1972 TKP/ML set up armed guerrilla units, known as TIKKO (Türk İşçiler Köylüler Kurtulus Ordusu - Turkish Workers' and Peasants' Liberation Army), which are used by both TKP/ML and TKP(ML) in common for their terrorist operations. In October 1999 TKP/ML announced its complete disagreement with the call by

Abdullah Öcalan, PKK leader, to end the armed struggle. TKP/ML claimed responsibility for an attack on a police car on 11 December 2000; two policemen were killed in the attack. Publications - "Partizan", "İsçi-Köylü Kurtuluşu", "Özgür Gelecek" (Free Future). [2a][67][52a] [52b] [52a] [69]

TKP(ML) (Communist Party of Turkey (Marxist-Leninist) (Türkiye Komünist Partisi (Marksist-Leninist). Split of TKP/ML in 1994. Political military. Maoist. Publications - "İsçi Köylü Kurtuluşu", "Devrimci Demokrasi" (Revolutionary Democracy), "Öncü Partizan" (Pioneer Partisan). [52a]

TKP/(M-L) DABK (Communist Party of Turkey (Marxist-Leninist) East Anadolu Area Committee) (Türkiye Komünist Partisi (Marksist-Leninist) Dogu Anadolu Bölge Komitesi). Illegal. [48]

TKP/M-L Kons. Kes (Communist Party of Turkey/ Marxist-Leninist Conferencing Body) (Türkiye Komünist Partisi/Marksist-Leninist Koferansçı Kesim). Illegal. [48]

TKP/ML (Maoist Parti Merkezi) (Communist Party of Turkey/ Marxist-Leninist (Maoist Party Centre)) (Türkiye Komünist Partisi/ Marksist Leninist (Maoist Parti Merkezi)). Illegal. Split of TKP/ML in 1987. Political military. Maoist. Publication - "İktidara". [48] [52b]

TODEF See **DHKP-C**

Toplumsal Özgürlük Platformu (Social Freedom Platform). Part of ÖDP (see Annex B). [52a]

TSİP (Socialist Workers Party of Turkey) (Türkiye Sosyalist İşçi Partisi). Founded 1993. Legal. Communist. Publication - "Kitle" (Mass, Crowd). [52a] [52a]

Türkiye'de Marksist-Leninist Parti (Marxist Leninist Party in Turkey). Founded in 1980 as TKP/ML Spartakus. Stalinist. Publications - "Spartakus", "Bilimsel Komünizmin Sancığı Altında". [52b]

UİC (Union of Islamic Communities). Founded 1983. Its initial goal is to unite Muslims living in Europe under one roof. Its main goal is to establish a Federal Islamic State in Anatolia. Its founder Cemalettin Kaplan declared himself the "caliph" of all Muslims in 1994, and from then on UİC called itself the "Caliphate State". After he died in 1995, his son Metin Kaplan replaced him as "caliph". Some members of UİC have rejected Metin Kaplan's caliphate, and UİC has divided into three groups. UİC has 200-300 members in Turkey, largely in Istanbul, Konya, Adana, Sivas, Aydın, and Maras, and 1300 members in Germany. In Germany in 1999 Metin Kaplan declared a holy war against In Turkey. The German authorities arrested Metin Kaplan in March 1999, and he is still in prison. However, Mr Kaplan leads UİC from prison. The Turkish police have conducted operations against UİC militants in Sivas, Sakarya, Erzurum, Bursa and Çanakkale. [65]

Vasat Grubu/Ehl-i Sünnet vel Cemaat. Illegal. It claimed responsibility for throwing a grenade at a book fair in Gaziantep on 14 September 1997, killing one person and injuring 24. [56] Today Vasat is inactive. With series of police operations in the June of 1999, in Malatya and in Ankara all the action plans, structure, strategies, educational activities and financial resources of the organisation had been deciphered. [65]

Yeni Yol (New Way). Part of ÖDP (see Annex B). Trotskyist. Publication - "Yeni Yol" (New Way). [52a]

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Annex D Prominent People

Atatürk, Kemal (born 1880/1881, died 1938) (Original name Mustafa Kemal, he was surnamed Atatürk ("Father of the Turks") in 1934). Atatürk was the founder of modern Turkey. He became Turkey's first President in 1923.

Bahçeli, Devlet. Leader of MHP (Nationalist Action Party), and Deputy Prime Minister 1999-2002.

Bakırhan, Tuncer. Chairman of DEHAP. [69]

Baykal, Deniz. Leader of CHP (Republican People's Party).

Bozlak, Murat. Chairman of HADEP (People's Democracy Party) until it was banned in March 2003. He is banned from being a founder, member or administrator of another party for five years from March 2003.

Bumin, Mustafa. Chairman of the Constitutional Court, Turkey's highest court.

Cem, Ismail. Foreign Minister 1997-2002, and founder of YTP.

Çiller, Tansu. Turkey's first woman Prime Minister 1993-96. Was Chairman of DYP (True Path Party).

Derviş Kemal. Formerly a Turkish Vice President of the World Bank.

Appointed after the February 2001 crisis as the State Minister responsible for the economy; resigned August 2002.

Ecevit, Bülent. Former leader of DSP (Democratic Left Party), and Prime Minister 1999-2002. Was Prime Minister in 1974 (when Turkey invaded Cyprus, in order, in its perception, to protect the Turkish Cypriot minority), in 1977, and in 1978-79.

Erdogan, Recep Tayyip. Prime Minister from March 2003 to present. Born in 1954, he was in 1994-1998 the popular and charismatic Islamist (Virtue/Fazilet) mayor of Istanbul. He served four months in prison in 1999 for reciting a poem with an Islamic message (and thereby "inciting religious hatred). Leader of the Islamist-orientated AK Partisi (Justice and Development Party), which he led to victory in the November 2002 general election, although he was ineligible to stand for Parliament because of his criminal conviction. The law was changed, he was elected in a by-election, and on 14 March 2003 he was appointed Prime Minister. [66c]

Gül Abdullah. Foreign Minister and Deputy Prime Minister. Prime Minister from November 2002 to March 2003. [60b] [63b]

Öcalan, Abdullah (nickname "Apo"). Leader of the PKK. Born in 1949 in Urfa. He initiated, with six colleagues, a specifically Kurdish national liberation movement based on Marxism-Leninism. From 1978 the Apocular, or followers of Apo, called themselves the PKK. He was captured, forcibly returned to Turkey in February 1999, put on trial, convicted of treason and sentenced to death. With the abolition in 2002 of the death penalty for offences in peacetime, his sentence was commuted to life imprisonment without conditional release. [30e] [58]

Özcan, Hüsamettin. Deputy Prime Minister 1999-2002.

Özkök, General Hilmi. Born 1940, Chief of the General Staff for a four year term from August 2002.

Sezer, Ahmet Necdet. President of Turkey since May 2000. He is the first President in Turkey's history who is neither an active politician nor a senior

military official. He was formerly Turkey's most senior judge, the Chairman of the Constitutional Court.

Yilmaz, Mesut. Prime Minister in 1991, 1996, and 1997-1999, and Deputy Prime Minister 1999-2002. Was Chairman of ANAP (Motherland Party).

Annex E: Martial Law and State of Emergency in Turkey

Province	Martial law	State of emergency
Adana	26.12.78 – 19.11.85	19.11.85 – 19.3.87
Adiyaman	26.4.79 – 19.11.85	19.11.85 – 19.3.86
Afyon	12.9.80 – 19.7.84	-
Agri	20.4.80 – 19.11.85	19.11.85 – 19.3.87
Aksaray	Established 15.6.89, previously part of Nigde	
Amasya	12.9.80 – 19.7.84	19.7.84 – 19.3.85
Ankara	26.12.78 – 19.7.85	19.7.85 – 19.11.86
Antalya	12.9.80 – 19.3.85	19.3.85 – 19.7.87
Ardahan	Established 27.5.92, previously part of Kars	
Artvin	12.9.80 – 19.7.85	19.7.85 – 19.3.86
Aydin	12.9.80 – 19.7.84	19.7.84 – 19.11.84
Balikesir	12.9.80 – 19.7.84	19.7.84 – 19.11.84
Bartın	Established 28.8.91, previously part of Zonguldak	
Batman	Established 16.5.90, previously part of Siirt	16.5.90 – 2.10.97
Bayburt	Established 15.6.89, previously part of Gümüşhane	
Bilecik	12.9.80 – 19.3.84	-
Bingöl	26.12.78 – 19.3.86	19.3.86 – 2.10.97
Bitlis	12.9.80 – 19.3.84	19.3.84 – 19.7.84. Reimposed 19.3.93 – 2.10.97
Bolu	12.9.80 – 19.7.84	-
Burdur	12.9.80 – 19.3.84	-
Bursa	12.9.80 – 19.3.85	19.3.85 – 19.3.86
Çanakkale	12.9.80 – 19.3.84	19.3.84 – 19.7.84
Çankiri	12.9.80 – 19.3.84	19.3.84 – 19.11.84
Çorum	12.9.80 – 19.7.84	19.7.84 – 19.7.85
Denizli	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Diyarbakir	26.4.79 – 19.7.87	19.7.87 – 30.11.02
Düzce	Established 1999, previously part of Bolu	
Edirne	12.9.80 – 19.7.85	19.7.85 – 19.11.85
Elazig	26.12.78 – 19.3.86	19.3.86 – 19.3.93
Erzincan	26.12.78 – 20.4.80 and 12.9.80 – 19.7.85	19.7.85 – 19.11.85
Erzurum	26.12.78 – 19.11.85	19.11.85 – 19.3.86
Eskisehir	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Gaziantep	26.12.78 – 19.11.85	19.11.85 – 19.3.86
Giresun	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Gümüşhane	12.9.80 – 19.3.84	19.3.84 – 19.11.84

Hakkâri	26.4.79 – 19.7.87	19.7.87 – 30.7.02
Hatay	20.2.80 – 19.11.85	19.11.85 – 19.3.87
İçel	12.9.80 – 19.3.85	19.3.85 – 19.7.86
Iğdir	Established 27.5.92, previously part of Kars	
Isparta		
Istanbul	26.12.78 – 19.11.85	19.11.85 – 19.11.88
İzmir	20.2.80 – 19.7.85	19.7.85 – 19.11.86
Karabük	Established 6.6.95, previously part of Zonguldak	
K. Maras	26.12.78 – 19.3.85	19.3.85 19.11.85
Karaman	Established 15.6.89, previously part of Konya	
Kars	26.12.78 – 19.11.85	19.11.85 – 19.11.86
Kastamonu	12.9.80 – 19.3.84	19.3.84 – 19.7.84
Kayseri	12.9.80 – 19.11.84	-
Kilis	Established 6.6.95, previously part of Gaziantep	
Kirikkale	Established 15.6.89, previously part of Ankara	
Kirklareli	12.9.80 – 19.3.84	-
Kirsehir	12.9.80 – 19.3.84	19.3.84 – 19.11.84
Kocaeli	12.9.80 – 19.3.85	19.3.85 – 19.11.85
Konya	12.9.80 – 19.11.84	-
Kütahya	12.9.80 – 19.3.84	-
Malatya	26.12.78 – 19.3.85	19.3.85 – 19.3.86
Manisa	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Maras	See K. Maras	
Mardin	26.4.79 – 19.7.87	19.7.87 – 29.11.96
Mugla	12.9.80 – 19.7.84	-
Mus	12.9.80 – 19.3.84	-
Nevsehir	12.9.80 – 19.7.84	-
Nigde	12.9.80 – 19.7.84	19.7.84 – 19.11.84
Ordu	12.9.80 – 19.7.85	19.7.85 – 19.7.86
Osmaniye	Established 1997, previously part of Adana	
Rize	12.9.80 – 19.7.84	19.7.84 – 19.3.85
S. Urfa	26.12.78 – 19.3.86	19.3.86 – 19.3.87
Sakarya	12.9.80 – 19.7.84	19.7.84 – 19.3.85
Samsun	12.9.80 – 19.3.85	19.3.85 – 19.7.85
Siirt	26.4.79 – 19.7.87	19.7.87 – 30.11.99
Sinop	12.9.80 – 19.3.84	19.3.84 – 19.7.84
Sirnak	Established 16.5.90, from Siirt	
Sivas	26.12.78 – 26.2.80 and 12.9.80 – 19.3.85	19.3.85 – 19.7.86
Tekirdag	12.9.80 – 19.7.84	-
Tokat	12.9.80 – 19.3.85	19.3.85 – 19.7.85
Trabzon	12.9.80 – 19.3.85	19.3.85 – 19.7.85
Tunceli	26.4.79 – 19.3.86	19.3.86 – 30.7.02

Usak	12.9.80 – 19.11.84	19.11.84 – 19.3.85
Van	12.9.80 – 19.3.87	19.3.87 – 30.7.00
Yalova	Established 6.6.95, previously part of Istanbul	
Yozgat	12.9.80 – 19.7.84	-
Zonguldak	12.9.80 – 19.3.85	19.3.85 – 19.7.85

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Annex F: Administration of Justice

Judges

1. The position of the judge (hakim, yargıç) is important, especially as there is no jury trial in Turkey. His role is substantially larger than that of a judge in UK or USA. He is actively responsible for the administration of justice. He takes the initiative in finding the law applicable to the facts submitted by the parties. The lawyers have the duty to assist the judge in establishing the facts and determining applicable legal provisions. The independence of judges is safeguarded by Articles 138 and following of the Constitution: "Judges shall be independent in the discharge of their duties. They shall pass judgements in accordance with the Constitution, law, justice and their personal convictions. No organ, office, agency or individual may give orders or instructions to courts or judges in connection with the discharge of their judicial duty, send them circulars, or make recommendations or suggestions. No questions may be raised, debates held, or statements issued in legislative bodies in connection with the discharge of judicial power concerning a case on trial." [64]

Public Prosecutors

2. Offences are, in the great majority of cases, prosecuted in the name of the people by public prosecutors (savcılar), who are virtually representatives of the executive branch of the government within the judiciary. The duty of initiating public prosecution rests with the public prosecutor. As soon as he is informed of the occurrence of an offence, the public prosecutor should make the investigation necessary to decide whether public prosecution should be initiated. He investigates evidence both against the accused and in his favour, and helps to preserve proof which otherwise might be lost. If, at the end of his investigation, the public prosecutor decides not to prosecute, he will inform the accused if the accused has testified, or if a warrant of arrest has been issued against the accused. No one may be convicted under an indictment in which he is not named, nor may he be convicted of a crime not specified in the indictment. [64]

3. In the case of some lesser offences specified by law, where the injury is deemed more private than public, the injured party may himself institute criminal proceedings by filing a private complaint (sahsi dava) without participation of the public prosecutor. In these exceptional cases, the private party enjoys all the rights given to the public prosecutor by law. Furthermore, the person injured by an offence may intervene in any public prosecution, and he becomes a party to the action by virtue of his intervention (Müdahale yolu ile dava). [64]

The defendant

4. The law of criminal procedure is intended not only to secure effective prosecution of offences, but also to secure to the accused an effective defence. The law is designed to protect innocent citizens. The accused is favoured in criminal proceedings by the presumption of innocence. The burden of proof rests on the public prosecutor or the private complainant, and the defendant is not held guilty until his guilt is established by final judgement. When the court is not satisfied by the evidence of the prosecution, or a reasonable doubt exists, the court must give a judgement of acquittal. [64] Of all judgements in the year 2000 in Turkish criminal courts, 283,743 were sentences, 114,439 were acquittals, and 27,384 dismissals. [59]

Evidence

5. Under the Code of Criminal Procedure, the judge weighs the probative value of all evidence submitted during the preparatory phase and during the trial, taking into account the credibility of the witnesses and other evidence to the best of his ability and in good conscience. The Code prescribes the forms of proof admissible to establish the guilt of the accused: confession, testimony of witnesses, writings and records of officials, evidence gained through discovery, judicial notice, searches and seizures, and the opinion of experts. The Code stipulates in detail the conditions governing the admissibility of each of these means of proof in order to prevent abuses and to ensure that they contribute to the establishment of the truth. [64]

6. In accordance with the Code, all depositions and statements made by interrogated persons and defendants must be made of free will. The use of unlawful interrogation methods (such as maltreatment, torture, forcing drugs, causing fatigue, cheating, deceiving, violence, unlawful promises) which are may distort free will, is prohibited. Accordingly statements and depositions obtained by unlawful means are considered inadmissible, even if they are of free will (for example, if a person were deceived). An additional subparagraph was incorporated into the Code, according to which the verdict of the court cannot be substantiated on evidence unlawfully obtained in the course of the preparatory investigation. [64]

Commencement and conduct of proceedings

Preparatory investigation

7. The public prosecutor, upon being informed of the occurrence of an alleged offence, makes a preparatory investigation (hazirlik sorusturmasi) in order to ascertain the identity of the offender and to decide whether it is necessary to institute a public prosecution. If he concludes that a public action is necessary, he institutes a case by an indictment before the competent court. If a public action is unnecessary he decides not to prosecute. The Minister of Justice may, by order, direct the prosecutor to initiate a public prosecution. [64]

8. The public prosecutor may, for the purpose of his enquiry, demand any information from any public employee. He is authorised to make his investigation either directly or through police officers. The police are obliged to inform the public prosecutor immediately of events, detainees, and measures taken, and to execute orders of the prosecutor concerning legal procedures. [64]

9. In cases where a private complaint is submitted to the public prosecutor, and the prosecutor finds no reason for prosecution or decides not to prosecute after a preparatory investigation, he informs the petitioner of his decision. If the petitioner is, at the same time, the aggrieved party the petitioner may, within 15 days of notice, object to the Chief Justice of the nearest court which hears aggravated felony cases. If the court is convinced that the petition is well founded and rightful, it orders a public prosecution; the prosecutor in charge of the case executes this decision. Otherwise, the court refuses the petition, and after such action a public prosecution may be opened only upon production of newly discovered evidence. [64]

10. A public prosecution shall be dismissed when the perpetrator of an offence which is punishable by a fine or a maximum of three months' imprisonment deposits the minimum amount of the fine prescribed for the specific offence (or, in the case of imprisonment, the sum which is the amount

prescribed by the Law of Execution of Penalties for one day of imprisonment) in the appropriate office before the court hearing. If this amount is paid by the offender before a public prosecution has been initiated, and within ten days of the date of the offence, the perpetrator shall not be prosecuted at all. [64]

11. The preparatory investigation is, in principle, secret, performed without the presence of the parties and in written form. [64]

Final investigation (trial)

12. The final investigation or trial (son sorusturma) begins when the indictment is sent by the public prosecutor to the court which will try the case. The final investigation has two stages: the preparation for trial (durusma hazirligi) and the trial itself (durusma). Its object is to examine all evidence before the court, and to reach a judgement with respect to the guilt of the accused. [64]

13. All phases of final investigation are conducted in the presence of the defendant. The Turkish Code of Criminal Procedure has adopted trial in absentia as an exception, only in cases where light sentences are involved i.e. where the offence is punishable by a fine, imprisonment for up to two years, and/or confiscation. At his own request, a defendant may be excused from attending trial, and may send a defence counsel in cases where his presence is not necessary. Trial may also be instituted against an absentee defendant when the offence is punishable by a fine, confiscation, or both. [64] If the suspect has already been heard by the court in an earlier session, or if he has been questioned by a judge on the facts of the case during preliminary enquiries before the trial, the trial may continue in the suspect's absence.

14. In principal trials are open to the public. This includes cases relating to state security. In political cases the audience usually includes some representatives of human rights organisations, and diplomatic staff from various countries. [2a] Final investigation is normally open to the public. Under the Code of Criminal Procedure, the court may decide, for the protection of public morals and security, to hold partly or completely closed sessions. The trials of children under 15 years of age must be conducted in closed sessions. [64]

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Annex G: The Court System

The Court System

According to the Turkish law today, the power of the judiciary is exercised by Judicial (Criminal), and Administrative Military Courts. These Courts render their verdicts in the first instance, and the superior courts examine the verdict for the last and final ruling. The superior courts are: the Constitutional Court, The Court of Appeals, the Council of State, the Military Tribunal of Appeals, the Supreme Military Administrative Court, the Court of Jurisdictional Dispute, the Court of Accounts and the Supreme Council of Judges and Public Prosecutors. [19]

Courts

The courts in Turkey are in fact divided into courts of justice, administrative courts, military courts and Constitutional court. Except the Constitutional Court, they are further divided into lower and higher courts. [19]

A. Courts of Justice

An old law dated 1880, which theoretically is still in force but actually has lost its identity because of a various amendments and new laws, was the first law determining the courts' competence and jurisdiction. The law relating to the organization of the courts determines the competence and jurisdiction of the different categories of courts. [19]

i. Civil Courts of the Peace (Sulh Hukuk Hakimligi)

This is the lowest civil court in Turkey with a single judge. There is at least one in every ilce. Its jurisdiction covers all kinds of claims where the amount does not exceed 2,000,000 Turkish Liras for the time being; claims of support, requests or minors for permission to marry or to shorten the waiting period of marriage, eviction cases for rentals by lease and all cases assigned to the court by the Code of Civil Procedure and other laws. There are 846 Civil Courts of the Peace in Turkey. [19]

ii. Civil Courts of First Instance (Asliye Hukuk Hakimligi)

This is the essential and basic court in Turkey. Its jurisdiction covers all civil cases other than those assigned to the civil Courts of the Peace. There is one in every il and ilce, and sometimes divided into several branches according to the need and necessity. There are 958 such Courts in Turkey. [19]

iii. Commercial Courts (Asliye Ticaret Mahkemesi)

The Commercial Courts are the specialized branches of all Civil Courts of First Instance, having jurisdiction over all kinds of commercial transactions, acts and affairs relating to any trading firm, factory, or commercially operated establishment. [19]

The Commercial Courts consist of three judges, one presiding judge, and two members. At present, 35 Commercial Courts exist in commercial centers, throughout Turkey. Where there are no Commercial courts, the

Civil Courts of First Instance perform the functions of the Commercial Courts. [19]

The competence of the Commercial Courts is clearly described under Article 5 of the Commercial Code. [19]

iv. Penal Courts of the Peace (Sulh Ceza Hakimligi)

This is the lowest penal court with a bench of one judge. There is one in every ilce, but it is sometimes divided into several branches according to the need and population. There are 840 such Courts in Turkey. They have jurisdiction over penal and municipal misdemeanors and all acts assigned by the Criminal Code, the Code of Criminal Procedure, the Code on the Application of the Criminal Code, and by other laws according to the assignment or to the degree of punishment stated by them. [19]

v. Penal Courts of First Instance (Asliye Ceza Hakimligi)

Among the penal courts, this Court with a single judge handles the essential local criminal work. Its jurisdiction covers all penal cases excluded from the jurisdiction of the Penal Court of the Peace and the Central Criminal Court. There is one in every il and in every ilce, sometimes divided into several branches according to the need and population. Therefore, at the moment there are 899 such Courts in Turkey. [19]

vi. Central Criminal Courts (Agur Ceza Mahkemesi)

This court consists of a presiding judge and two members with a public prosecutor. Offenses and crimes involving a penalty of over five years of imprisonment, or capital punishment are under the jurisdiction of this Court of which there is one in every il. But it is sometimes divided into several branches according to the need and population. There are 172 Central criminal courts throughout Turkey. [19]

vii. State Security Courts (Develet Gıvenlik Mahkemesi)/Regional Serious Felony Courts

As noted in the European Commission Regular Report on Turkey's progress Towards Accession 2004, the State Security Courts have been abolished and replaced by Regional Serious Felony Courts (also referred to as Heavy Penal Courts). According to the previous law, State Security Courts used to handle the criminal offenses described in Article 9 of the said law which were about the security of the state. They consisted of a presiding judge and two members with a public prosecutor. There were 12 such Courts throughout Turkey. [19]

viii. Execution Investigation Authority (Icra Tetkik Hakimligi)

A court with a single judge which has jurisdiction over disputes arising during the execution of all civil sentences and judicial decrees; over all acts obstruction or rendering difficult the execution of all civil sentences and judicial decrees. There is one such Court in every ilce in Turkey. [19]

viv. Other Lower Courts

In addition to the ordinary courts, there are 72 courts in Turkey which handle labor disputes; 443 courts which handle land registrations and

surveys and 6 courts which handle traffic disputes. There are also 5 juvenile courts in Turkey. [19]

x. The Court of Cassation (Yargitay)

The highest appellate court in Turkey is called the Court of Cassation. It is divided into 30 chambers according to their particular specialized field. There are 20 civil chambers, 10 penal chambers. Each chamber is a five-judge court with a presiding judge and four members. One elected judge by the all judges of the Court of Cassation presides over the entire Court as general President. [19]

All final judgments are appealable, except those less than 400,000 Turkish Liras and, in penal cases, judgments concerning fines up to 2,000,000 Turkish Liras, judgments of acquittal from an offense involving fines not exceeding 10,000,000 Turkish Liras, and judgments which are described in the Criminal Code or other codes as final. [19]

A letter from the British Embassy in Ankara dated 22 April 2005 noted that the Yargitay only confirms or cancels court verdicts and does not conduct retrials. [4d]

B. Administrative Courts

The administrative courts include the Council of State, subordinate courts at the regions, and the Supreme Military Administrative Court. [19]

i. The Council of State (Danistay)

The highest court for controversies arising from governmental or public services and action, and for general administrative disputes, having judicial and administrative function, is the Council of State. It is the final court for cases under its own jurisdiction and a court of appeal for the decisions given by subordinate administrative courts. The Council of State has 10 judicial chambers. [19]

ii. Subordinate Administrative Courts (Idare ve Vergi Mahkemeleri)

According to the law, first tier of administrative courts in Turkey are established on regional bases. The courts founded at the regions are, administrative courts (idare Mahkemeleri) and tax courts (vergi mahkemeleri). There are 22 administrative courts and 33 tax courts in Turkey. [19]

iii. Supreme Military Administrative Court (Askeri Yuksek Idare Mahkemesi)

The jurisdiction of the Supreme Military Administrative Court covers cases arising from administrative acts and actions made by military authorities and also cases arising from administrative acts and actions made by civilian authorities but involving military personnel and relation to military services. The Supreme Military Administrative Court is divided into 2 chambers. [19]

C. Military Courts

i. Military Criminal courts (Askeri Ceza Mahkemesi)

The jurisdiction of these Courts covers all military offenses described in the Military Criminal Code, in the Code Military Criminal Procedure, and in some other laws. There are 37 such Courts in Turkey. [19]

ii. The Military Criminal Court of Cassation (Askeri Yargitay)

According to the law, this court functions as the court of appeal of all decisions and judgments given by Military courts. It is divided into 5 chambers. [19]

D. The Constitutional Court (Anayasa Mahkemesi)

The Constitutional Court is first established by the Constitution of 1961, following the example of certain post-world War II constitutions, a system of judicial control of the constitutionality of laws. This system was maintained with certain modifications by the Constitution of 1982. [19]

The Constitutional Court consists of 11 regular members and 4 alternate members. All judges of the constitutional Court hold office until they retire at the age of 65 like all other judges in Turkey. [19]

Annex H: Removal Figures for Turkish Nationals

Removals of Turkish nationals to Turkey

Date	Germany (2)	Switzerland (1)	Netherlands (1)	UK (1)	Denmark (1)	USA (2)	Canada (2)	Australia (2)	Sweden (1)	Total of both (1) and (2)	Total o (1)
1989		850								850	850
1990		786								786	786
1991		1171								1171	1171
1992	1860	883								2743	883
1993	1631	309								1940	309
1994	3426	147	69		10	33	55			3740	226
1995	2611	109	177	125	15	26	34			3097	426
1996	4647	60	199	190	26	18	25	43	105	5313	580
1997	4972	38	163	250	15	39	28	47	66	5618	532
1998	6692	46	224	185	16	53	30	39	44	7329	515
1999	4960	71	137	85(a)	20	68(c)	16	73	52	5482	365
2000	4982	75	244	90(a)	22	63(c)	59	29	28	5592	459
2001	4322	92	112	140(b)	35	66(c)	67	31	39	4904	418
Totals										48565	7520

1. Numbers only relate to returns of rejected asylum seekers
 2. Numbers include both asylum and non-asylum returns.
 - (a) Excluding in-country removals, because of data quality issues.
 - (b) For the period April to December 2001 (figures unavailable for Jan. to Mar. 2001 because of data quality issues).
 - (c) In fiscal year 1.10.98 to 30.9.99, or 1.10.99 to 30.9.00, or 1.10.00 to 30.9.01.
 - (d) Total includes 'announcement to leave after detention 18, ordered to leave by border police 14, expelled 203, controlled departure 69'
- Where numbers are not shown statistics are not presently available for those years.

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